AMENDMENTS (9)
2618 - 2950

Draft report
Jan Philipp Albrecht
(PE501.927v04-00)

on the proposal for a regulation of the European Parliament and of the Council
on the protection of individual with regard to the processing of personal data
and on the free movement of such data (General Data Protection Regulation)

Proposal for a regulation
(COM(2012)0011 – C7-0025/2012 – 2012/0011(COD))
Amendment 2618
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 53 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each supervisory authority shall have the power:

Amendment

1. The competent supervisory authority shall have the power:

Or. en

Amendment 2619
Axel Voss

Proposal for a regulation
Article 53 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each supervisory authority shall have the power:

Amendment

1. Pursuant to Article 51 the competent supervisory authority shall have the power:

Or. en

Amendment 2620
Louis Michel

Proposal for a regulation
Article 53 – paragraph 1 – point a

Text proposed by the Commission

(a) to notify the controller or the processor of an alleged breach of the provisions governing the processing of personal data, and, where appropriate, order the controller or the processor to remedy that breach, in a specific manner, in order to improve the protection of the data subject;

Amendment

(a) to notify the controller or the processor of an alleged breach of the provisions governing the processing of personal data, and, where appropriate, order the controller or the processor to remedy that breach, in a specific manner, in order to improve the protection of the data subject or, where necessary, oblige the controller to communicate the personal data breach to the data subject;
Amendment 2621
Axel Voss

Proposal for a regulation
Article 53 – paragraph 1 – point d

Text proposed by the Commission: (d) to ensure the compliance with prior authorisations and prior consultations referred to in Article 34;

Amendment: (d) to ensure the compliance with prior consultations referred to in Article 34;

Justification

Taken from ITRE-opinion.

Amendment 2622
Alexander Alvaro

Proposal for a regulation
Article 53 – paragraph 1 – point i a (new)

Text proposed by the Commission: (ia) to certify controllers and processors pursuant to Article 39;

Amendment: (ia) to certify controllers and processors pursuant to Article 39;

Amendment 2623
Dimitrios Droutsas

Proposal for a regulation
Article 53 – paragraph 1 – point i a (new)

Text proposed by the Commission: (ia) to certify controllers and processors pursuant to Article 39;

Amendment: (ia) to certify controllers and processors pursuant to Article 39;
Amendment 2624
Axel Voss

Proposal for a regulation
Article 53 – paragraph 1 – point j a (new)

Text proposed by the Commission
(ja) to inform the controller and/or the processor of the judicial remedies available against its decision.

Justification
Taken from ITRE opinion.

Amendment 2625
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 53 – paragraph 1 – point j a (new)

Text proposed by the Commission
(ja) to carry out audits or draw up audit plans on personal data protection

Amendment 2626
Alexander Alvaro

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission
Each supervisory authority shall have the investigative power to obtain from the controller or the processor:

Amendment
Each supervisory authority shall have the investigative power to obtain from the controller or the processor without prior
notice:

Justification

The power to investigate data controllers and processors without prior notice should enhance the role of the supervisory authority.

Amendment 2627
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Each supervisory authority shall have the investigative power to obtain from the controller or the processor:

Amendment

The competent supervisory authority shall have the investigative power to obtain from the controller or the processor:

Amendment 2628
Axel Voss

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Each supervisory authority shall have the investigative power to obtain from the controller or the processor:

Amendment

Pursuant to Article 51 the competent supervisory authority shall have the investigative power to obtain from the controller or the processor:

Amendment 2629
Sophia in 't Veld

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – point a
(a) access to all personal data and to all information necessary for the performance of its duties;

(a) access to all personal data and to all documents and information necessary for the performance of its duties;

Or. en

Amendment 2630
Jan Philipp Albrecht

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) access to any of its premises, including to any data processing equipment and means, where there are reasonable grounds for presuming that an activity in violation of this Regulation is being carried out there.

Amendment

(b) access to any of its premises, including to any data processing equipment and means.

Or. en

Justification

Without the deletion, data controllers could avoid on-site inspections by challenging the existence of “reasonable grounds”. In such cases, inspections could only take place after a court decision, and in the meantime, evidence could be destroyed.

Amendment 2631
Josef Weidenholzer

Proposal for a regulation
Article 53 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) access to any of its premises, including to any data processing equipment and means, where there are reasonable grounds for presuming that an activity in violation of this Regulation is being

Amendment

(b) access to any of its premises, including to any data processing equipment and means.
carried out there.

Amendment 2632
Kinga Gál

Proposal for a regulation
Article 53 – paragraph 3

Text proposed by the Commission
3. Each supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Amendment
3. Each supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 75(2).

Or. hu

Amendment 2633
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 53 – paragraph 3

Text proposed by the Commission
3. Each supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Amendment
3. The competent supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Or. en
3. *Each* supervisory authority shall have the power to bring violations of this Regulation to the attention of the judicial authorities and to engage in legal proceedings, in particular pursuant to Article 74(4) and Article 75(2).

Amendment 2635
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 53 – paragraph 4

Text proposed by the Commission

4. *Each* supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

Amendment

4. *Pursuant to Article 51 the competent* supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

Amendment 2636
Axel Voss

Proposal for a regulation
Article 53 – paragraph 4

Text proposed by the Commission

4. *Each* supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).

Amendment

4. *Pursuant to Article 51 the competent* supervisory authority shall have the power to sanction administrative offences, in particular those referred to in Article 79(4), (5) and (6).
Proposal for a regulation
Article 53 – paragraph 4 a (new)

Text proposed by the Commission

4a. A supervisory authority shall pay a reward to an informant who provides information concerning allegations of unlawful processing, amounting to twenty percent of any fine imposed under paragraph 4 which results from investigation of the information received. The procedures for payment shall protect the identity of the informant from disclosure, and make provision for payment to anonymous informants.

Amendment

Amendment 2638
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 54

Text proposed by the Commission

Each supervisory authority must draw up an annual report on its activities. The report shall be presented to the national parliament and shall be made be available to the public, the Commission and the European Data Protection Board.

Amendment

Each supervisory authority must draw up an annual report on its activities. The report shall be presented to the respective parliament and/or to the other authorities stipulated in the relevant national legislation and shall be made be available to the public, the Commission and the European Data Protection Board.

Amendment 2639
Dimitrios Droutsas

Proposal for a regulation
Article 54

Or. es
Each supervisory authority must draw up an annual report on its activities. The report shall be presented to the national parliament and shall be made available to the public, the Commission and the European Data Protection Board.

Amendment 2640
Dimitrios Droutsas

Proposal for a regulation
Article 54 a (new)

Text proposed by the Commission

Article 54a

Lead Authority

1. Where the processing of personal data takes place in the context of the activities of an establishment of a controller or a processor in the Union, and the controller or processor is established in more than one Member State, or where personal data of the residents in several Member States are processed, the supervisory authority of the main establishment of the controller or processor shall act as a single contact point for the controller or processor.

2. The lead authority shall ensure coordination with the authorities involved at any stage of supervisory proceedings against a controller or a processor within the meaning of paragraph 1. For that purpose it shall in particular submit any relevant information and consult the other authorities before it adopts a measure intended to produce legal effects vis-à-vis a controller or a processor within the meaning of paragraph 1.

3. Where the controller is not established
in the Union, and residents in different Member States are affected by processing operations within the scope of this Regulation, the supervisory authorities of the Member States concerned shall designate the supervisory authority that will act as a single contact point for the controller or processor.

Or. en

Amendment 2641
Axel Voss

Proposal for a regulation
Article 54 a (new)

Text proposed by the Commission

Amendment

Article 54a

Lead authority and consistency

1. The following procedure shall be used where a data subject complains of a violation of his or her rights under this regulation in connection with the processing of personal data, or where the consistent application of this regulation needs to be ensured in accordance with Article 46:

(a) Where a data subject is involved: the data subject’s relevant supervisory authority shall be the lead authority;
(b) Where no data subject is involved: Where the processing of personal data takes place in the context of the activities of an establishment of a controller or a processor in the Union, and the controller or processor is established in more than one Member State, or where personal data relating to persons resident in several Member States are being processed, the supervisory authority of the Member State in which the controller or processor has its main establishment shall be the sole contact point for the controller or
processor and shall be the lead authority.

2. The lead authority shall see to coordination with the other supervisory authorities involved at every stage of the supervisory procedure. To that end it shall pass on all relevant information and shall consult the other supervisory authorities involved before taking any measures with legal consequences. The lead authority shall give full consideration to the opinions of the supervisory authorities involved. The lead authority shall also involve the Commission at all stages of the supervisory procedure.

If the supervisory authorities involved, headed by the lead authority, together with the Commission, have found a common solution within four weeks, this solution shall be adopted without the European Data Protection Board needing to consider the matter. The data subject, the controller or the processor shall have available to them all the legal remedies set out in this regulation and all other remedies of general application.

If the supervisory authorities involved, headed by the lead authority together with the Commission, have not found a common solution within four weeks, the matter shall be submitted to the European Data Protection Board. To that end the lead authority shall take the necessary steps in accordance with this regulation.

3. If the European Data Protection Board, together with the Commission, has found a common solution within eight weeks, this solution shall be adopted. The data subject, the controller or the processor shall have available to them all the legal remedies set out in this regulation and all other remedies of general application.

If the European Data Protection Board, together with the Commission, has not found a common solution within eight weeks, the Commission shall be empowered and required to propose
within a further four weeks a solution in the framework of a delegated act, taking into consideration the opinion of the European Data Protection Board. If it does not do so, all those involved, including the legislator, shall have available to them all the legal remedies set out in this regulation and all other remedies of general application; this concerns in particular the data subject, the data controller and the processor.

4. If Parliament or the Council object to the substance of the delegated act using the procedure laid down for that purpose, the Commission shall launch a legislative initiative using the procedure laid down for that purpose. All those involved shall have available to them all the legal remedies set out in this regulation and all other remedies of general application; this concerns in particular the data subject, the data controller and the processor.

Amendment 2642
Carmen Romero López
Proposal for a regulation
Article 54 a (new)

Text proposed by the Commission

Amendment

Article 54(a)

Lead authority

1. In the event of complaints, investigations or other supervisory activities pertaining to the processing of personal data, as part of the activities of a controller or processor established in more than one Member State, or if such data processing affects persons in more than one Member State, the supervisory authority concerned shall inform any other supervisory authorities concerned before initiating any procedure. Any of
these supervisory authorities may request further information, cooperation with the reporting authority under the terms laid down in Articles 55 and 56 or coordinated action between all the supervisory authorities concerned under the terms laid down in paragraph 3.

2. The supervisory authority concerned shall provide the other authorities concerned with a draft measure or any other relevant information, including a summary of the facts and a legal report, before adopting a measure to close an open procedure in respect of complaints, investigations or other supervisory activities and which have legal effects on controllers, processors or data subjects.

3. In the event that a supervisory authority concerned requests coordinated action between all the supervisory authorities concerned, the supervisory authority of the Member State in which the main establishment of the controller or processor is located shall be the lead authority and shall act, with their accord, on behalf of the supervisory authorities concerned at all stages of the supervisory procedures.

To that end, the lead authority must, inter alia, submit draft measures to the other supervisory authorities concerned.

4. If any of the supervisory authorities concerned expresses its opposition to the proposed draft measures within three weeks of their submission the matter will be referred to the European Data Protection Board under the terms of Article 58.

5. If none of the supervisory authorities expresses its opposition, the proposed measure shall be adopted by all the supervisory authorities concerned and applied at national level.

6. In the event that the lead authority fails to act within one month of receiving a
request from one or more of the supervisory authorities concerned, the requesting supervisory authorities shall be competent to take provisional measures, and shall refer the matter to the European Data Protection Board as per the procedure laid down in Article 58.

Or. es

Justification

This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2643
Alexander Alvaro

Proposal for a regulation
Article 55 – paragraph 1

Text proposed by the Commission

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective cooperation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

Amendment

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective cooperation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

Or. en
Justification

Deletion is consequence of amendment of Article 34.

Amendment 2644
Axel Voss

Proposal for a regulation
Article 55 – paragraph 1

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<td>1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective cooperation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations. The leading supervisory authority according to Article 51(2) ensures the coordination with the relevant authorities involved and acts as central contact point for the controller and processor.</td>
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Amendment 2645
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 55 – paragraph 1

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this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

Amendment 2646
Dimitrios Droutsas

Proposal for a regulation
Article 55 – paragraph 1

Text proposed by the Commission

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where data subjects in several Member States are likely to be affected by processing operations.

Amendment

1. Supervisory authorities shall provide each other relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and prompt information on the opening of cases and ensuing developments where the controller or processor has establishments in several Member States or where data subjects in several Member States are likely to be affected by processing operations. The lead authority as defined in Article 54a shall ensure the coordination with involved supervisory authorities and shall act as the single contact point for the controller or processor.
Amendment 2647  
Axel Voss

Proposal for a regulation  
Article 55 – paragraph 2

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.

Amendment 2648  
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation  
Article 55 – paragraph 2

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations that have been proven contrary to this Regulation.

Or. en
Amendment 2649
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 55 – paragraph 2

Text proposed by the Commission

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than one month after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.

Amendment

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without delay and no later than 15 days after having received the request. Such measures may include, in particular, the transmission of relevant information on the course of an investigation or enforcement measures to bring about the cessation or prohibition of processing operations contrary to this Regulation.

Amendment 2650
Axel Voss

Proposal for a regulation
Article 55 – paragraph 4 a (new)

Text proposed by the Commission

4a. In cases covered by Article 55(4), the admissibility of the measure to which the request for assistance relates shall be determined in accordance with the law of the requesting authority; the lawfulness of providing assistance shall be determined in accordance with the law of the requested authority;

Amendment

4a. In cases covered by Article 55(4), the admissibility of the measure to which the request for assistance relates shall be determined in accordance with the law of the requesting authority; the lawfulness of providing assistance shall be determined in accordance with the law of the requested authority;

Amendment 2651
Axel Voss

Proposal for a regulation
Article 55 – paragraph 6
6. Supervisory authorities shall supply the information requested by other supervisory authorities by electronic means and within the shortest possible period of time, using a standardised format.

 Amendment

6. Supervisory authorities shall supply the information requested by other supervisory authorities by electronic means and within the shortest possible period of time, using a standardised format. Both the request and the electronic transfer of information shall be made using the Internal Market Information System.

Or. de

Amendment 2652
Axel Voss

Proposal for a regulation
Article 55 – paragraph 7

Text proposed by the Commission

7. No fee shall be charged for any action taken following a request for mutual assistance.

Amendment

7. No fee shall be charged to the requesting supervisory authority for any action taken following a request for mutual assistance.

Or. de

Amendment 2653
Axel Voss

Proposal for a regulation
Article 55 – paragraph 8

Text proposed by the Commission

8. Where a supervisory authority does not act within one month on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure

Amendment

8. Where a supervisory authority does not act within one month of the time limit referred to in paragraph 2 on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure
Where no definitive measure is yet possible because the assistance is not yet completed, the requesting supervisory authority may take interim measures under Article 53 in the territory of its Member State.

Amendment 2654
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 55 – paragraph 8

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<th>Text proposed by the Commission</th>
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<tr>
<td>8. Where a supervisory authority does not act within one month on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure referred to in Article 57.</td>
<td>8. Where a supervisory authority does not act within 15 days on request of another supervisory authority, the requesting supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board in accordance with the procedure referred to in Article 57.</td>
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Amendment 2655
Axel Voss

Proposal for a regulation
Article 55 – paragraph 10

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<tr>
<td>10. The Commission may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between</td>
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EN
supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment 2656
Alexander Alvaro

Proposal for a regulation
Article 55 – paragraph 10

Text proposed by the Commission

10. The Commission may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Amendment

10. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6.

Justification

Horizontal amendment replacing all implementing acts with delegated acts in order to guarantee the full involvement of the European Parliament in the decision making process.

Amendment 2657
Dimitrios Droutsas

Proposal for a regulation
Article 55 – paragraph 10
10. The Commission may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

10. The European Data Protection Board may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6.

Amendment 2658
Frank Engel

Proposal for a regulation
Article 56 – paragraph 2

2. In cases where data subjects in several Member States are likely to be affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The competent supervisory authority shall invite the supervisory authority of each of those Member States to take part in the respective joint investigative tasks or joint operations and respond to the request of a supervisory authority to participate in the operations without delay.

2. In cases where data subjects in several Member States are likely to be adversely affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The competent supervisory authority shall respond to the request of a supervisory authority to participate in the operations without delay.

Amendment 2659
Dimitrios Droutsas
Proposal for a regulation
Article 56 – paragraph 2

Text proposed by the Commission

2. In cases where data subjects in several Member States are likely to be affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The competent supervisory authority shall invite the supervisory authority of each of those Member States to take part in the respective joint investigative tasks or joint operations and respond to the request of a supervisory authority to participate in the operations without delay.

Amendment

2. In cases where the controller or processor has establishments in several Member States or where data subjects in several Member States are likely to be affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint investigative tasks or joint operations, as appropriate. The lead authority as defined in Article 54a shall invite the supervisory authority of each of those Member States to take part in the respective joint investigative tasks or joint operations and respond to the request of a supervisory authority to participate in the operations without delay. The lead authority shall act as the single contact point for the controller or processor.

Or. en

Amendment 2660
Axel Voss

Proposal for a regulation
Article 56 – paragraph 4

Text proposed by the Commission

4. Supervisory authorities shall lay down the practical aspects of specific cooperation actions.

Amendment

4. Supervisory authorities shall lay down the practical aspects of specific cooperation actions in their rules of procedure. The rules of procedures shall be made public in the Official Journal of the European Union.

Or. en
Justification

Taken from ITRE-opinion.

Amendment 2661
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation
Article 56 – paragraph 5

Text proposed by the Commission

5. Where a supervisory authority does not comply within one month with the obligation laid down in paragraph 2, the other supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1).

Amendment

5. Where a supervisory authority does not comply within 15 days with the obligation laid down in paragraph 2, the other supervisory authorities shall be competent to take a provisional measure on the territory of its Member State in accordance with Article 51(1).

Or. es

Amendment 2662
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 58 – paragraph 1

Text proposed by the Commission

1. Before a supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Amendment

1. Before the competent supervisory authority adopts a measure referred to in paragraph 2, this competent supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Or. en

Amendment 2663
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 58 – paragraph 1
Text proposed by the Commission

1. Before a supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Amendment

1. Before a supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board.

Or. en

Amendment 2664
Axel Voss

Proposal for a regulation
Article 58 – paragraph 1

Text proposed by the Commission

1. Before a supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Amendment

1. Before the competent supervisory authority adopts a measure referred to in paragraph 2, this supervisory authority shall communicate the draft measure to the European Data Protection Board and the Commission.

Or. en

Amendment 2665
Frank Engel

Proposal for a regulation
Article 58 – paragraph 2 – point a

Text proposed by the Commission

(a) relates to processing activities which are related to the offering of goods or services to data subjects in several Member States, or to the monitoring of their behaviour; or

Amendment

(a) relates to processing activities of personal data which are related to the offering of goods or services specifically targeted at data subjects in several Member States, in accordance of Article 3 (2) and where the controller has not designated a representative in the Union; or

Or. en
Amendment 2666
Axel Voss

Proposal for a regulation
Article 58 – paragraph 2 – point a

Text proposed by the Commission

(a) relates to processing activities which are related to the offering of goods or services to data subjects in several Member States, or to the monitoring of their behaviour; or

Amendment

(a) relates to processing activities of personal data which are related to the offering of goods or services to data subjects in several Member States when the controller or processor outside of the Union does not name a representative in the territory of the Union;

Or. en

Justification

Taken from ITRE-opinion with some changes.

Amendment 2667
Frank Engel

Proposal for a regulation
Article 58 – paragraph 2 – point c

Text proposed by the Commission

(c) aims at adopting a list of the processing operations subject to prior consultation pursuant to Article 34(5); or

Amendment

deleted

Or. en

Amendment 2668
Axel Voss

Proposal for a regulation
Article 58 – paragraph 2 – point f

Text proposed by the Commission

(f) aims to approve binding corporate rules

Amendment

(f) aims to approve binding corporate rules
within the meaning of Article 43. within the meaning of Article 38b.

Amendment 2669
Axel Voss

Proposal for a regulation
Article 58 – paragraph 2 – point f a (new)

Text proposed by the Commission
(fa) permits processing for research purposes in accordance with Article 81(3) and/or Article 83(3).

Amendment

Or. en

Justification

Taken from ITRE opinion.

Amendment 2670
Dimitrios Droutsas

Proposal for a regulation
Article 58 – paragraph 3

Text proposed by the Commission
3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Amendment
3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56, or where a competent supervisory authority does not agree with the draft measure proposed by the lead authority.

Or. en
Amendment 2671
Axel Voss

Proposal for a regulation
Article 58 – paragraph 3

Text proposed by the Commission

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Amendment

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where the competent authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2672
Carmen Romero López

Proposal for a regulation
Article 58 – paragraph 3

Text proposed by the Commission

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56.

Amendment

3. Any supervisory authority or the European Data Protection Board may request that any matter shall be dealt with in the consistency mechanism, in particular where a supervisory authority does not submit a draft measure referred to in paragraph 2 or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56, or where a supervisory authority concerned opposes a draft measure proposed by another supervisory authority.

or where a supervisory authority concerned opposes a draft measure proposed by another supervisory authority.
concerned or by the lead authority, as per the provisions of Article 54(a).

Or. es

Justification

Amendment proposed for reasons of consistency with the proposed Article 54a (new).

Amendment 2673
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 58 – paragraph 4

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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</tr>
</thead>
<tbody>
<tr>
<td>4. In order to ensure correct and consistent application of this Regulation, the Commission may request that any matter shall be dealt with in the consistency mechanism.</td>
<td>4. In order to ensure correct and consistent application of this Regulation, the Commission may, <em>acting on its own behalf, and shall at the request of a stakeholder</em>, request that any matter shall be dealt with in the consistency mechanism.</td>
</tr>
</tbody>
</table>

Or. en

Justification

When there are inconsistencies with regards to the application of the Regulation which threaten the harmonized implementation and effect specific stakeholders, the affected stakeholders should be given the right to bring their concerns into the consistency mechanism.

Amendment 2674
Axel Voss

Proposal for a regulation
Article 58 – paragraph 4

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<td>4. In order to ensure correct and consistent application of this Regulation, the Commission may request that any matter shall be dealt with in the consistency mechanism.</td>
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</tr>
</tbody>
</table>

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shall be dealt with in the consistency mechanism. \textit{behalf, and shall at the request of a stakeholder}, request that any matter shall be dealt with in the consistency mechanism.

\textit{Justification}

\textit{Taken from ITRE-opinion.}

\textbf{Amendment 2675}

Axel Voss

\textbf{Proposal for a regulation}

\textbf{Article 58 – paragraph 6}

\textit{Text proposed by the Commission}

6. The chair of the European Data Protection Board shall \textit{immediately} electronically inform the members of the European Data Protection Board and the Commission of any relevant information which has been communicated to it, using a standardised format. The chair of the European Data Protection Board shall provide translations of relevant information, where necessary.

\textit{Amendment}

6. The chair of the European Data Protection Board shall \textit{without undue delay} electronically inform the members of the European Data Protection Board and the Commission of any relevant information which has been communicated to it, using a standardised format. The chair of the European Data Protection Board shall provide translations of relevant information, where necessary.

\textit{Justification}

\textit{Taken from ITRE-opinion.}

\textbf{Amendment 2676}

Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

\textbf{Proposal for a regulation}

\textbf{Article 58 – paragraph 7}

\textit{Text proposed by the Commission}

7. The European Data Protection Board

\textit{Amendment}

7. The European Data Protection Board
shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within one week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within one month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.

Amendment 2677
Dimitrios Droutsas

Proposal for a regulation
Article 58 – paragraph 7

Text proposed by the Commission

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within one week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within one month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.

Amendment

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within two weeks after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within six weeks by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.
Amendment 2678
Louis Michel

Proposal for a regulation
Article 58 – paragraph 7

Text proposed by the Commission

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within one week after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within one month by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authority competent under Article 51 of the opinion and make it public.

Amendment

7. The European Data Protection Board shall issue an opinion on the matter, if the European Data Protection Board so decides by simple majority of its members or any supervisory authority or the Commission so requests within two weeks after the relevant information has been provided according to paragraph 5. The opinion shall be adopted within two months by simple majority of the members of the European Data Protection Board. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1 and 3, the Commission and the supervisory authorities competent under Article 51 of the opinion and make it public.

Amendment 2679
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 58 – paragraph 8

Text proposed by the Commission

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board

Amendment

8. The competent supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of
Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Amendment 2680
Dimitrios Droutsas

Proposal for a regulation
Article 58 – paragraph 8

Text proposed by the Commission

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Amendment

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take the utmost account of the opinions of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Or. en

Amendment 2681
Axel Voss

Proposal for a regulation
Article 58 – paragraph 8

Text proposed by the Commission

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take

Amendment

8. The competent supervisory authority referred to in paragraph 1 and the supervisory authority competent under
account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Or. en

Amendment 2682
Louis Michel

Proposal for a regulation
Article 58 – paragraph 8

Text proposed by the Commission

8. The supervisory authority referred to in paragraph 1 and the supervisory authority competent under Article 51 shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Amendment

8. The supervisory authority referred to in paragraph 1 and the supervisory authorities competent under Article 51 (1) shall take account of the opinion of the European Data Protection Board and shall within two weeks after the information on the opinion by the chair of the European Data Protection Board, electronically communicate to the chair of the European Data Protection Board and to the Commission whether it maintains or amends its draft measure and, if any, the amended draft measure, using a standardised format.

Or. en

Amendment 2683
Monika Hohlmeier

Proposal for a regulation
Article 58 – paragraph 8 a (new)
8a. Where the Commission intends to initiate treaty infringement proceedings in respect of the action taken against the Member State of the competent supervisory authority, it shall first give the European Data Protection Board the opportunity to issue its opinion and shall inform it about the progress of the procedure. The Member State shall give the competent supervisory authority the opportunity to state its opinion at any stage of the infringement proceedings.

Amendment 2684
Dimitrios Droutsas
Proposal for a regulation
Article 58 – paragraph 8a (new)

8a. Where the lead authority pursuant to Article 54a intends not to follow the opinion of the European Data Protection Board, it shall inform the European Data Protection Board thereof in writing within one month and provide a reasoned justification.

Amendment 2685
Dimitrios Droutsas
Proposal for a regulation
Article 58 – paragraph 8b (new)

8b. In a case where the European Data Protection Board still objects to the
measure of the supervisory authority as referred to in paragraph 9, it may inform the Commission and invite it to submit a reasoned recommendation to the lead authority.

Amendment 2686
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 59

Text proposed by the Commission

Amendment

Article 59 deleted

Opinion by the Commission

1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, an opinion in relation to matters raised pursuant to Articles 58 or 61.

2. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take utmost account of the Commission’s opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.

3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. In this case the draft measure shall not be adopted for one
**further month.**

Amendment 2687  
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio

Proposal for a regulation  
Article 59 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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<tbody>
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<td>1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, an opinion in relation to matters raised pursuant to Articles 58 or 61.</td>
<td>deleted</td>
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Amendment 2688  
Dimitrios Droutsas

Proposal for a regulation  
Article 59 – paragraph 1

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<td>1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, an opinion in relation to matters raised pursuant to Articles 58 or 61.</td>
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Amendment 2689  
Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio
Proposal for a regulation
Article 59 – paragraph 2

Text proposed by the Commission

2. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take utmost account of the Commission’s opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.

Amendment 2690
Dimitrios Droutsas

Proposal for a regulation
Article 59 – paragraph 2

Text proposed by the Commission

2. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take utmost account of the Commission’s opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.

Amendment 2691
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 59 – paragraph 3

Text proposed by the Commission

3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.
Amendment 2692
Dimitrios Droutsas

Proposal for a regulation
Article 59 – paragraph 3

_text proposed by the Commission_ 

3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.

_deleted_

Amendment 2693
Louis Michel

Proposal for a regulation
Article 59 – paragraph 3

_text proposed by the Commission_ 

3. During the period referred to in paragraph 1, the draft measure shall not be adopted by the supervisory authority.

_deleted_

Amendment 2694
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 59 – paragraph 4

_text proposed by the Commission_ 

4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. In this case the
draft measure shall not be adopted for one
further month.

Or. es

Amendment 2695
Dimitrios Droutsas

Proposal for a regulation
Article 59 – paragraph 4

Text proposed by the Commission

4. Where the supervisory authority
corresponds to the opinion of the Commission,
it shall inform the Commission and the European
Data Protection Board thereof within the
period referred to in paragraph 1 and
provide a justification. In this case the
draft measure shall not be adopted for one
further month.

Amendment

deleted

Or. en

Amendment 2696
Alexander Alvaro

Proposal for a regulation
Article 59 – paragraph 4

Text proposed by the Commission

4. Where the supervisory authority
corresponds to the opinion of the Commission,
it shall inform the Commission and the European
Data Protection Board thereof within the
period referred to in paragraph 1 and provide a
justification. In this case the draft
measure shall not be adopted for one
further month.

Amendment

4. Where the supervisory authority
corresponds to the opinion of the Commission,
it shall inform the Commission and the European
Data Protection Board thereof within the period
referred to in paragraph 1 and provide a
justification.

Or. en
**Justification**

The additional requirement to hold back the adoption for one further month does not seem justified nor necessary.

**Amendment 2697**
**Adina-Ioana Vălean, Jens Rohde**

Proposal for a regulation  
Article 59 – paragraph 4

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<td>4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. <em>In this case the draft measure shall not be adopted for one further month.</em></td>
<td>4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification.</td>
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**Amendment 2698**
**Louis Michel**

Proposal for a regulation  
Article 59 – paragraph 4

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<td>4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within the period referred to in paragraph 1 and provide a justification. <em>In this case the draft measure shall not be adopted for one further month.</em></td>
<td>4. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within <em>one month</em> and provide a <em>reasoned</em> justification. <em>This reasoned justification shall be made publicly available.</em></td>
</tr>
</tbody>
</table>

Or. en
Amendment 2699
Louis Michel
Proposal for a regulation
Article 59 – paragraph 4 a (new)

Text proposed by the Commission

4a. Where the Commission has adopted an opinion in accordance with paragraph 1, the supervisory authority concerned shall take the utmost account of the Commission’s opinion and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.

Or. en

Amendment 2700
Dimitrios Droutsas
Proposal for a regulation
Article 60

Text proposed by the Commission

Article 60 deleted

Suspension of a draft measure

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

(a) reconcile the diverging positions of the supervisory authority and the European
Data Protection Board, if this still appears to be possible; or
(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Amendment 2701
Louis Michel
Proposal for a regulation
Article 60

Text proposed by the Commission Amendment

Article 60 deleted
Suspension of a draft measure
1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:
(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or
(b) adopt a measure pursuant to point (a)
2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Amendment 2702
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 60

Text proposed by the Commission

Amendment

Article 60 deleted

Suspension of a draft measure

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

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Suspension of a draft measure

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.
may not adopt the draft measure.

Or. en

Justification

It is not appropriate for the European Commission to have the authority to suspend the draft measure.

Amendment 2704
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 60

Text proposed by the Commission
Amendment

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; o

b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.
Timothy Kirkhope on behalf of the ECR Group

Proposal for a regulation
Article 60 – paragraph 1

Text proposed by the Commission

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

(b) adopt a measure pursuant to point (a) of Article 62(1).

2. The Commission shall specify the duration of the suspension which shall not exceed 12 months.

3. During the period referred to in paragraph 2, the supervisory authority may not adopt the draft measure.

Amendment 2706
Monika Hohlmeier
Proposal for a regulation
Article 60 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation or would otherwise result in its inconsistent application, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

*Amendment*

1. Within one month after the communication referred to in Article 59(4), and where the Commission has serious doubts as to whether the draft measure would ensure the correct application of this Regulation, the Commission may adopt a reasoned decision requiring the supervisory authority to suspend the adoption of the draft measure, taking into account the opinion issued by the European Data Protection Board pursuant to Article 58(7) or Article 61(2), where it appears necessary in order to:

Or. de

**Amendment 2707**
Monika Hohlmeier

Proposal for a regulation
Article 60 – paragraph 1 – point a

*Text proposed by the Commission*

(a) reconcile the diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

*Amendment*

(a) reconcile the widely diverging positions of the supervisory authority and the European Data Protection Board, if this still appears to be possible; or

Or. de

**Amendment 2708**
Monika Hohlmeier

Proposal for a regulation
Article 60 – paragraph 2

*Text proposed by the Commission*

2. The Commission shall specify the

*Amendment*

2. The Commission shall specify the
duration of the suspension which shall not exceed *12 months*.

duration of the suspension which shall not exceed *8 weeks*.

---

**Amendment 2709**

Monika Hohlmeier

Proposal for a regulation
Article 60 a (new)

*Text proposed by the Commission*

**Amendment**

**Article 60a**

*Notification of Parliament and Council*

The Commission shall notify the Council and the European Parliament at regular intervals, at least every six months, on the basis of a report from the Chair of the European Data Protection Board, of the matters dealt with under the consistency procedure, setting out the conclusions drawn by the Commission and the European Data Protection Board with a view to ensuring the consistent implementation and application of this regulation.

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**Amendment 2710**

Alexander Alvaro

Proposal for a regulation
Article 61 – paragraph 1

*Text proposed by the Commission*

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means

*Amendment*

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means
of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

Amendment 2711
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 61 – paragraph 1

Text proposed by the Commission

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

Amendment

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of a data subject within their competent supervisory, when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages through a clear data breach or an unjustified inaction by the competent supervisory authority, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the competent supervisory authority, the European Data Protection Board, the Commission and to the controller or processor.
Proposal for a regulation
Article 61 – paragraph 1

**Text proposed by the Commission**

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

**Amendment**

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board, the controller or processor concerned and to the Commission.

**Or. en**

Amendment 2713
Axel Voss

Proposal for a regulation
Article 61 – paragraph 1

**Text proposed by the Commission**

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

**Amendment**

1. In exceptional circumstances, where a supervisory authority considers that there is an urgent need to act in order to protect the interests of data subjects, in particular when the danger exists that the enforcement of a right of a data subject could be considerably impeded by means of an alteration of the existing state or for averting major disadvantages or for other reasons, by way of derogation from the procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board, the controller or processor concerned and to the Commission.
procedure referred to in Article 58, it may immediately adopt provisional measures with a specified period of validity. The supervisory authority shall, without delay, communicate those measures, with full reasons, to the European Data Protection Board and to the Commission.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2714
Jens Rohde, Adina-Ioana Vălean

Proposal for a regulation
Article 61 – paragraph 2

Text proposed by the Commission

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 and considers that final measures need urgently be adopted, it may request an urgent opinion of the European Data Protection Board, giving reasons for requesting such opinion, including for the urgency of final measures.

Amendment

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 it shall request an urgent opinion of the European Data Protection Board, giving reasons for the claim, including for the urgency of final measures.

Or. en

Amendment 2715
Axel Voss

Proposal for a regulation
Article 61 – paragraph 2

Text proposed by the Commission

2. Where a supervisory authority has taken a measure pursuant to paragraph 1 and considers that final measures need

Amendment

2. Where a supervisory authority has taken a measure pursuant to paragraph 1, it shall request an urgent opinion of the European
urgently be adopted, it may request an urgent opinion of the European Data Protection Board, giving reasons for requesting such opinion, including for the urgency of final measures.

Data Protection Board, giving reasons for the request, including for the urgency of final measures.

Justification

Taken from ITRE-opinion.

Amendment 2716
Dimitrios Droutsas

Proposal for a regulation
Article 61 a (new)

Text proposed by the Commission

Amendment

Article 61a

Intervention by the Commission

1. Within ten weeks after a matter has been raised under Article 58, or at the latest within six weeks in the case of Article 61, the Commission may adopt, in order to ensure correct and consistent application of this Regulation, a reasoned recommendation in relation to matters raised pursuant to Articles 58 or 61.

2. Where the Commission has adopted a reasoned recommendation, in accordance with paragraph 1, the supervisory authority concerned shall take the utmost account of the Commission's recommendation and inform the Commission and the European Data Protection Board whether it intends to maintain or amend its draft measure.

3. Where the supervisory authority concerned intends not to follow the opinion of the Commission, it shall inform the Commission and the European Data Protection Board thereof within one month and provide a reasoned
justification. This reasoned justification shall be made publicly available.

The supervisory authority may withdraw the draft measure at any stage of the procedure.

Amendment 2717
Alexander Alvaro

Proposal for a regulation
Article 62 – title

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Implementing acts</td>
<td>Delegated acts</td>
</tr>
</tbody>
</table>

Justification

Horizontal amendment replacing all implementing acts with delegated acts in order to guarantee the full involvement of the European Parliament in the decision making process.

Amendment 2718
Alexander Alvaro

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Commission may adopt implementing acts for:</td>
<td>1. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of:</td>
</tr>
</tbody>
</table>

Justification

Horizontal amendment replacing all implementing acts with delegated acts in order to guarantee the full involvement of the European Parliament in the decision making process.
**Amendment 2719**  
Dimitrios Droutsas

**Proposal for a regulation**  
**Article 62 – paragraph 1 – subparagraph 1 – introductory part**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Commission may adopt implementing acts for:</td>
<td>1. The Commission may adopt implementing acts, after requesting an opinion of the European Data Protection Board, for:</td>
</tr>
</tbody>
</table>

**Amendment 2720**  
Dimitrios Droutsas

**Proposal for a regulation**  
**Article 62 – paragraph 1 – subparagraph 1 – point a**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) deciding on the correct application of this Regulation in accordance with its objectives and requirements in relation to matters communicated by supervisory authorities pursuant to Article 58 or 61, concerning a matter in relation to which a reasoned decision has been adopted pursuant to Article 60(1), or concerning a matter in relation to which a supervisory authority does not submit a draft measure and that supervisory authority has indicated that it does not intend to follow the opinion of the Commission adopted pursuant to Article 59;</td>
<td>deleted</td>
</tr>
</tbody>
</table>

**Amendment 2721**  
Axel Voss

**Proposal for a regulation**  
**Article 62 – paragraph 1 – subparagraph 1 – point a**
(a) deciding on the correct application of this Regulation in accordance with its objectives and requirements in relation to matters communicated by supervisory authorities pursuant to Article 58 or 61, concerning a matter in relation to which a reasoned decision has been adopted pursuant to Article 60(1), or concerning a matter in relation to which a supervisory authority does not submit a draft measure and that supervisory authority has indicated that it does not intend to follow the opinion of the Commission adopted pursuant to Article 59;

deleted

Or. en

Justification

From ITRE-opinion.

Amendment 2722
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) deciding on the correct application of this Regulation in accordance with its objectives and requirements in relation to matters communicated by supervisory authorities pursuant to Article 58 or 61, concerning a matter in relation to which a reasoned decision has been adopted pursuant to Article 60(1), or concerning a matter in relation to which a supervisory authority does not submit a draft measure and that supervisory authority has indicated that it does not intend to follow the opinion of the Commission adopted pursuant to Article 59;

deleted
Amendment 2723
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) deciding, within the period referred to in Article 59(1), whether it declares draft standard data protection clauses referred to in point (d) of Article 58(2), as having general validity;

Amendment

deleted

Or. es

Amendment 2724
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) deciding, within the period referred to in Article 59(1), whether it declares draft standard data protection clauses referred to in point (d) of Article 58(2), as having general validity;

Amendment

deleted

Or. es

Amendment 2725
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

(c) specifying the format and procedures for the application of the consistency mechanism referred to in this section;

Amendment

deleted
Amendment 2726
Alexander Alvaro

Proposal for a regulation
Article 62 – paragraph 1 – subparagraph 2

Text proposed by the Commission  Amendment

Those implementing acts shall be adopted  deleted
in accordance with the examination
procedure referred to in Article 87(2).

Justification

Horizontal amendment replacing all implementing acts with delegated acts in order to
guarantee the full involvement of the European Parliament in the decision making process.

Amendment 2727
Alexander Alvaro

Proposal for a regulation
Article 62 – paragraph 2

Text proposed by the Commission  Amendment

2. On duly justified imperative grounds of  deleted
urgency relating to the interests of data
subjects in the cases referred to in point
(a) of paragraph 1, the Commission shall
adopt immediately applicable
implementing acts in accordance with the
procedure referred to in Article 87(3).
Those acts shall remain in force for a
period not exceeding 12 months.

Amendment 2728
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 62 – paragraph 2

Text proposed by the Commission

2. On duly justified imperative grounds of urgency relating to the interests of data subjects in the cases referred to in point (a) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 87(3). Those acts shall remain in force for a period not exceeding 12 months.

Amendment 2729
Dimitrios Droutsas

Proposal for a regulation
Article 62 – paragraph 2

Text proposed by the Commission

2. On duly justified imperative grounds of urgency relating to the interests of data subjects in the cases referred to in point (a) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 87(3). Those acts shall remain in force for a period not exceeding 12 months.

Or. en

Amendment 2730
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 63 – paragraph 1
Text proposed by the Commission

1. For the purposes of this Regulation, an enforceable measure of the supervisory authority of one Member State shall be enforced in all Member States concerned.

Amendment 2731
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 63 – paragraph 2

Text proposed by the Commission

2. Where a supervisory authority does not submit a draft measure to the consistency mechanism in breach of Article 58(1) to (5), the measure of the supervisory authority shall not be legally valid and enforceable.

Amendment 2732
Alexander Alvaro

Proposal for a regulation
Article 63 a (new)

Text proposed by the Commission

Appealing procedures

Article 63a

Without prejudice to the competences of the judiciary system of the Member States and of the Union, the European Data Protection Board can issue binding opinions if:

(a) a data subject or a data controller appeals on ground of inconsistent
application of this Regulation across the Member States; and

(b) the consistency mechanism described in Articles 58 to 63 has failed to ensure that a simple majority of the members of the European Data Protection Board agrees on a measure. Before issuing such opinion, the European Data Protection Board shall take into consideration every relevant information the competent Data Protection Authority can provide, including the point of view of the interested parties.

Or. en

**Justification**

An appealing procedure is necessary in case of an inconsistent application of this Regulation across the Member States and in case the consistency mechanism fails.

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**Amendment 2733**

Timothy Kirkhope

on behalf of the ECR Group

Proposal for a regulation

Article 65 – paragraph 2

*Text proposed by the Commission*  
Amendment

2. Without prejudice to requests by the Commission referred to in point (b) of paragraph 1 and in paragraph 2 of Article 66, the European Data Protection Board shall, in the performance of its tasks, neither seek nor take instructions from anybody.

Or. en

**Amendment 2734**

Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation

Article 66 – paragraph 1 – introductory part
1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission, in particular:

**Amendment**

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative, at the request of the Commission or other stakeholders, in particular:

Or. en

**Amendment 2735**  
Frank Engel

**Proposal for a regulation**  
**Article 66 – paragraph 1 – introductory part**

**Text proposed by the Commission**

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission, in particular:

**Amendment**

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative, at the request of the European Parliament, Council or Commission, in particular:

Or. en

**Amendment 2736**  
Dimitrios Droutsas

**Proposal for a regulation**  
**Article 66 – paragraph 1 – introductory part**

**Text proposed by the Commission**

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission, in particular:

**Amendment**

1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the European Parliament, Council and the Commission, in particular:
Amendment 2737
Axel Voss

Proposal for a regulation
Article 66 – paragraph 1 – introductory part

Text proposed by the Commission
1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission, in particular:

Amendment
1. The European Data Protection Board shall ensure the consistent application of this Regulation. To this effect, the European Data Protection Board shall, on its own initiative or at the request of the Commission or other stakeholders, in particular:

Or. en

Justification
Taken from ITRE-opinion.

Amendment 2738
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point a

Text proposed by the Commission
(a) advise the Commission on any issue related to the protection of personal data in the Union, including on any proposed amendment of this Regulation;

Amendment
(a) advise the European Institutions on any issue related to the protection of personal data in the Union, including on any proposed amendment of this Regulation;

Or. en

Amendment 2739
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 66 – paragraph 1 – point b
(b) examine, on its own initiative or on request of one of its members or on request of the Commission, any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

(b) examine, on its own initiative or on request of one of its members, the Commission or other stakeholders any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation, including on the use of enforcement powers;

Or. en

Amendment 2741
Axel Voss

Proposal for a regulation
Article 66 – paragraph 1 – point b

(b) examine, on its own initiative or on request of one of its members or on request of the European Parliament, the Council or the Commission, any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation, including on the use of enforcement powers;

Or. en
request of the Commission, any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

Commission or other stakeholders, any question covering the application of this Regulation and issue guidelines, recommendations and best practices addressed to the supervisory authorities in order to encourage consistent application of this Regulation;

Justification

Taken from ITRE-opinion.

Amendment 2742
Alexander Alvaro

Proposal for a regulation
Article 66 – paragraph 1 – point d

Text proposed by the Commission
(d) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 57;

Amendment
(d) issue opinions on draft decisions of supervisory authorities pursuant to the consistency mechanism referred to in Article 57 and Article 63a;

Or. en

Amendment 2743
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point d a (new)

Text proposed by the Commission
(d) provide an opinion on which authority should be the lead authority pursuant to Article 54a(3);

Amendment
(da) provide an opinion on which authority should be the lead authority pursuant to Article 54a(3);

Or. en
Amendment 2744
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

(ga) give its opinion to the Commission in the preparation of delegated and implementing acts based on this Regulation;

Amendment

Or. en

Amendment 2745
Louis Michel

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

(ga) examine codes of conduct and amendments or extensions to existing codes of conduct submitted to it pursuant to Article 38(3).

Amendment

Or. en

Amendment 2746
Sophia in 't Veld

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

(ga) provide assistance or litigate on behalf of the supervisory authority, at the request of that supervisory authority, when the resources of the supervisory authority are insufficient to effectively take up a case before any court;

Amendment

Or. en
Justification

This is particularly important in cases against companies that might amount to large fines and where the legal capacities of the DPA might not effectively match those of the company concerned.

Amendment 2747
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

( ga) propose the concepts on which European certification policy should be based, monitor and assess implementation, and submit its conclusions to the Commission.

Amendment

Or. es

Amendment 2748
Carmen Romero López

Proposal for a regulation
Article 66 – paragraph 1 – point g a (new)

Text proposed by the Commission

( ga) set out common procedures for the receipt and investigation of information pertaining to complaints concerning the unlawful processing of personal data with a view to protecting whistleblowers from reprisals, and to safeguarding the confidentiality of the sources of such information in cases where whistleblowers may be affected by third countries’ laws prohibiting the uncovering of such unlawful processing of personal data.

Amendment

Or. es
Justification

Proposes setting out common procedures to deal with complaints from whistleblowers and taking measures to protect them from possible reprisals and keep their identity secret where necessary.

Amendment 2749
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point g b (new)

Text proposed by the Commission

(gb) give an opinion on codes of conduct drawn up at Union level;

Amendment

Or. en

Amendment 2750
Sophia in 't Veld

Proposal for a regulation
Article 66 – paragraph 1 – point g b (new)

Text proposed by the Commission

(gb) The European Data Protection Board shall work in a transparent way and, where appropriate, consult stakeholders when developing specifications, opinions, guidelines or other output on the basis of this Regulation.

Amendment

Or. en

Amendment 2751
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 1 – point g c (new)

Text proposed by the Commission

(gc) elaborate with the supervisory authorities the fixed fee for the granting

Amendment


of the standardised data protection mark, the "European Data Protection Seal".

Amendment 2752
Judith Sargentini

Proposal for a regulation
Article 66 – paragraph 1 – point g d (new)

Text proposed by the Commission

(gd) establish common procedures for receiving and investigating information concerning allegations of unlawful processing, protecting informants against reprisals, and safeguarding confidentiality and sources of information received; taking into account that informants may place themselves in jeopardy of prosecution based on laws of third countries which may prohibit disclosures about such unlawful processing.

Or. en

Justification

requires the DP board to protect whistleblowers informing supervisory authorities about secret unlawful processing activities, in particular concerning laws of third countries which seek to authorize disclosures of data which would be unlawful in the EU. Very serious instances are likely to involve many DPAs and thus require Board level coordination and consistency.

Amendment 2753
Dimitrios Droutsas

Proposal for a regulation
Article 66 – paragraph 2

Text proposed by the Commission

2. Where the Commission requests advice

Amendment

2. Where the European Parliament, the
from the European Data Protection Board, it may lay out a time limit within which the European Data Protection Board shall provide such advice, taking into account the urgency of the matter.

Council or the Commission request advice from the European Data Protection Board, it may lay out a time limit within which the European Data Protection Board shall provide such advice, taking into account the urgency of the matter.

Amendment 2754
Alexander Alvaro

Proposal for a regulation
Article 66 – paragraph 4 a (new)

Text proposed by the Commission

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in this Article, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.

Amendment

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in this Article, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.

Amendment 2755
Frank Engel

Proposal for a regulation
Article 66 – paragraph 4 a (new)

Text proposed by the Commission

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in this Article, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.
Amendment 2756
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 66 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in this Article, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.

Amendment 2757
Axel Voss

Proposal for a regulation
Article 66 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where appropriate, the European Data Protection Board shall, in its execution of the tasks as outlined in Article 66, consult interested parties and give them the opportunity to comment within a reasonable period. The European Data Protection Board shall, without prejudice to Article 72, make the results of the consultation procedure publicly available.
Justification

Taken from ITRE-opinion.

Amendment 2758
Dimitrios Droutsas

Proposal for a regulation
Article 68 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall take decisions by a simple majority of its members.

Amendment

1. The European Data Protection Board shall take decisions by a simple majority of its members, unless otherwise provided in its rules of procedure.

Or. en

Amendment 2759
Carmen Romero López

Proposal for a regulation
Article 68 – paragraph 1 a (new)

Text proposed by the Commission

1a. In votes on the European Data Protection Board, each representative of the supervisory authority of their Member State shall have as many votes as its Member State has in the Council of the European Union.

Amendment

Or. es

Amendment 2760
Csaba Sógor

Proposal for a regulation
Article 69 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall elect a chair and two deputy

Amendment

1. The European Data Protection Board shall elect a chair and two deputy
One deputy chairperson shall be the European Data Protection Supervisor, unless he or she has been elected chair.
Proposal for a regulation
Article 69 – paragraph 2

Text proposed by the Commission

2. The term of office of the chair and of the deputy chairpersons shall be five years and be renewable.

Amendment

2. The term of office of the chair and of the deputy chairpersons shall be five years and be renewable. Their appointment may be revoked by a decision of the European Parliament adopted by a two-thirds majority of the votes cast, representing a majority of its component Members.

Or. en

Justification

Taken from ITRE-opinion.

Amendment 2764
Monika Hohlmeier

Proposal for a regulation
Article 70 a (new)

Text proposed by the Commission

1. The European Data Protection Board shall set up a body of stakeholders, this body shall consist of experts from concerned stakeholder groups. The Chair may propose such stakeholders. In proposing this, the Chair shall take data subjects' associations, consumer groups and experts from the private sector and academia into account.

2. The Board shall decide upon the setup and the frequency of the expert group. These decisions shall be based on provisions made in the internal rules of the Board. These rules shall be made public.

Amendment

Article 70a

Experts or Group of Experts

1. The European Data Protection Board shall set up a body of stakeholders, this body shall consist of experts from concerned stakeholder groups. The Chair may propose such stakeholders. In proposing this, the Chair shall take data subjects' associations, consumer groups and experts from the private sector and academia into account.

2. The Board shall decide upon the setup and the frequency of the expert group. These decisions shall be based on provisions made in the internal rules of the Board. These rules shall be made public.
3. The Chair of the Board shall also be the Chair of the group of experts.

4. Members of the Board may not be members of the expert group. The members of the expert group shall change once during the legislature and at least every 3 years. A representative of the European Parliament and Commission staff shall be invited to the meetings of the expert group and to contribute to its work.

5. The experts shall be consulted by the Board on its activities.

Amendment 2765
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 71 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall have a secretariat. The European Data Protection Supervisor shall provide that secretariat.

Amendment

1. The European Data Protection Board shall have a secretariat. The Commission shall provide the means necessary to run that secretariat.

Or. es

Amendment 2766
Carmen Romero López

Proposal for a regulation
Article 71 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Board shall have a secretariat. The European Data Protection Supervisor shall provide that secretariat.

Amendment

1. The European Data Protection Board shall have a secretariat. The Secretariat of the Council shall provide the human and financial resources necessary to ensure it can exercise its duties effectively and independently under the management of
its Chair.

Amendment 2767
Monika Hohlmeier

Proposal for a regulation
Article 71 – paragraph 3 – point b

Text proposed by the Commission
(b) the communication between the members of the European Data Protection Board, its chair and the Commission and for communication with other institutions and the public;

Amendment
(b) the communication between the members of the European Data Protection Board, experts or a group of experts that is consulted by the Board, the Chair and the Commission and for communication with other institutions and the public;

Or. en

Amendment 2768
Monika Hohlmeier

Proposal for a regulation
Article 71 – paragraph 3 – point e

Text proposed by the Commission
(e) the preparation and follow-up of the meetings of the European Data Protection Board;

Amendment
(e) the preparation and follow-up of the meetings of the European Data Protection Board and for experts or a group of experts that are involved;

Or. en

Amendment 2769
Monika Hohlmeier

Proposal for a regulation
Article 71 – paragraph 3 – point f

Text proposed by the Commission
(f) the preparation, drafting and publication

Amendment
(f) the preparation, drafting and publication
of opinions and other texts adopted by the European Data Protection Board.

of opinions and other texts adopted by the European Data Protection Board, as well as of documents of the experts or group of experts that are involved.

Or. en

Amendment 2770
Carmen Romero López

Proposal for a regulation
Article 71 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall propose, within two years from the entry into force of this Regulation, a draft regulation for the establishment of an independent agency which shall run that secretariat, which shall have sufficient human and financial resources to ensure it can exercise its duties effectively and independently under the management of its Chair.

Or. es

Amendment 2771
Sophia in 't Veld

Proposal for a regulation
Article 71 a (new)

Text proposed by the Commission

Amendment

Article 71a

Legal Service

1. The European Data Protection Board shall have a legal service. The European Data Protection Supervisor shall provide that legal service.

2. The legal service shall provide legal assistance to supervisory authorities and the European Data Protection Board
under the direction of the chair.

3. The legal service shall be responsible in particular for:

(a) providing assistance to supervisory authorities in litigation at the request of a supervisory authority;

(b) litigating on behalf of the supervisory authority when the resources of the supervisory authority are insufficient to effectively take up a case before any court at the request of the supervisory authority, or at the request of the European Data Protection Board or the Commission with the consent of the supervisory authority;

(c) exchanging legal knowledge and experience among the supervisory authorities;

(d) clarifying jurisdictional conflicts with third countries.

Proposal for a regulation
Article 72 – paragraph 1

Text proposed by the Commission

1. The discussions of the European Data Protection Board shall be confidential.

Amendment

1. The discussions of the European Data Protection Board shall be confidential where necessary, whilst upholding the highest possible standards of transparency and openness as to its general work.

Amendment 2772
Timothy Kirkhope
on behalf of the ECR Group

Amendment 2773
Timothy Kirkhope
on behalf of the ECR Group
Proposal for a regulation
Article 72 – paragraph 2

Text proposed by the Commission

2. Documents submitted to members of the European Data Protection Board, experts and representatives of third parties shall be confidential, unless access is granted to those documents in accordance with Regulation (EC) No 1049/2001 or the European Data Protection Board otherwise makes them public.

Or. en

Amendment 2774
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 73 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in any Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in their Member State of residence if they consider that the processing of personal data relating to them does not comply with this Regulation, or that the rights accorded to them under the regulation have not been fully respected.

Or. es

Amendment 2775
Carmen Romero López

Proposal for a regulation
Article 73 – paragraph 1
1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in any Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.

Amendment
1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in their Member State of residence if they consider that the processing of personal data relating to them does not comply with this Regulation.

Justification
This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2776
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 73 – paragraph 1

Text proposed by the Commission
1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in any Member State if they consider that the processing of personal data relating to them does not comply with this Regulation.

Amendment
1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority in their own Member State or the Supervisory Authority in the Member State where the controller is established and where the processing of personal data relating to them does not comply with this Regulation.

Or. en
Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Or. en

Amendment 2777
Wim van de Camp

Amendment 2778
Louis Michel
Amendment 2779  
Axel Voss, Seán Kelly, Wim van de Camp, Renate Sommer, Lara Comi, Monika Hohlmeier, Hubert Pirker, Georgios Papanikolaou, Salvatore Iacolino

Proposal for a regulation  
Article 73 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td>2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.</td>
<td>deleted</td>
</tr>
</tbody>
</table>

Justification

The right to privacy and data protection is a fundamental personal right which should not be subject to collective redress and the problematic legal and economical aspects that go along with such collective redress.

Amendment 2780  
Agustín Díaz de Mera García Consuegra

Proposal for a regulation  
Article 73 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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</tr>
</thead>
<tbody>
<tr>
<td>2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.</td>
<td>2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State may lodge a complaint with a supervisory authority in that Member State for an alleged breach of this</td>
</tr>
</tbody>
</table>

Or. en
more data subjects if it considers that a data subject’s rights under this Regulation have been infringed as a result of the processing of personal data.

Regulation. The rights bestowed on it under this Regulation also empower it to act on behalf of one or more data subjects resident in that Member State, provided it has sufficient power of attorney to do so.

Amendment 2781
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects with the consent of the data subject if a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment 2782
Birgit Sippel, Josef Weidenholzer, Evelyn Regner

Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge

Amendment

2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State, in particular employees’
a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject’s rights under this Regulation have been infringed as a result of the processing of personal data.

representatives, shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject’s rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment 2783
Carmen Romero López

Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with the supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject’s rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

2. Any body, organisation or association which aims to protect data subjects’ rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with the supervisory authority in any Member State on behalf of one or more data subjects residing in that Member State if it considers that a data subject’s rights under this Regulation have been infringed as a result of the processing of personal data.

Justification

This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2784
Anna Hedh, Marita Ulvskog
Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State, including worker representatives, shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment 2785
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 73 – paragraph 2

Text proposed by the Commission

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Amendment

2. Any body, organisation or association which aims to protect data subjects' rights and interests concerning the protection of their personal data and has been properly constituted according to the law of a Member State, including worker representatives, shall have the right to lodge a complaint with a supervisory authority in any Member State on behalf of one or more data subjects if it considers that a data subject's rights under this Regulation have been infringed as a result of the processing of personal data.

Or. en

Amendment 2786
Wim van de Camp

AM\929533EN.doc 87/178 PE506.170v02-00
Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Amendment

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Amendment 2787
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Or. en

Amendment 2788
Louis Michel

Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Or. es
with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Amendment 2789
Axel Voss, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Hubert Pirker, Georgios Papanikolaou, Salvatore Iacolino, Lara Comi

Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

Amendment

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.

Justification

The right to privacy and data protection is a fundamental personal right which should not be subject to collective redress and the problematic legal and economical aspects that go along with such collective redress

Amendment 2790
Kinga Gál

Proposal for a regulation
Article 73 – paragraph 3

Text proposed by the Commission

Amendment

3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.
personal data breach has occurred.

**Amendment 2791**  
Cornelia Ernst

**Proposal for a regulation**  
**Article 73 – paragraph 3**

<table>
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<tbody>
<tr>
<td>3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.</td>
<td>3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred or when it considers that a controller or processor has breached its obligations under Article 23.</td>
</tr>
</tbody>
</table>

**Amendment 2792**  
Carmen Romero López

**Proposal for a regulation**  
**Article 73 – paragraph 3**

<table>
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<tr>
<td>3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint with a supervisory authority in any Member State, if it considers that a personal data breach has occurred.</td>
<td>3. Independently of a data subject's complaint, any body, organisation or association referred to in paragraph 2 shall have the right to lodge a complaint in the Member State in which are located, if it considers that a personal data breach affecting data subjects residing in that Member State has occurred.</td>
</tr>
</tbody>
</table>
Justification

This amendment sets out a decision-making procedure for supervisory authorities in respect of all matters arising from complaints by citizens of their Member State. Depending on the nature of the case, there is scope for coordinated action from a lead authority, with any disagreements resolved by the European Data Protection Board. These provisions enable the procedure to enter into operation upon the submission of a complaint.

Amendment 2793
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 1

Text proposed by the Commission Amendment
1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them. deleted

Or. en

Amendment 2794
Alexander Alvaro

Proposal for a regulation
Article 74 – paragraph 1

Text proposed by the Commission Amendment
1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them. Without prejudice to the procedure described in Article 63a, each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning or affecting them.

Or. en

Amendment 2795
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 74 – paragraph 1

Text proposed by the Commission

1. Each natural or legal person shall have the right to \textit{a judicial remedy} against decisions of a supervisory authority concerning them.

Amendment

1. Each natural or legal person shall have the right to \textit{take legal action} against decisions of a supervisory authority concerning them \textit{or affecting them in any way}.

Or. es

Amendment 2796
Axel Voss

Proposal for a regulation
Article 74 – paragraph 1

Text proposed by the Commission

1. Each natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.

Amendment

1. Each \textit{controller, processor or other} natural or legal person shall have the right to a judicial remedy against decisions of a supervisory authority concerning them.

Or. en

Justification

Clarification.

Amendment 2797
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 2

Text proposed by the Commission

2. Each data subject shall have the right to a judicial remedy obliging the supervisory authority to act on a complaint in the absence of a decision necessary to protect their rights, or where

Amendment

\textit{deleted}

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the supervisory authority does not inform the data subject within three months on the progress or outcome of the complaint pursuant to point (b) of Article 52(1).

Amendment 2798

Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 74 – paragraph 2

Text proposed by the Commission
2. Each data subject shall have the right to a judicial remedy obliging the supervisory authority to act on a complaint in the absence of a decision necessary to protect their rights, or where the supervisory authority does not inform the data subject within three months on the progress or outcome of the complaint pursuant to point (b) of Article 52(1).

Amendment
2. If the supervisory authority has not informed the data subject of the status of a complaint within three months of its being lodged, the complaint will be deemed to have been rejected. The complaint will also be deemed to have been rejected if the supervisory authority has not definitively resolved it within six months.

Or. es

Amendment 2799

Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 3

Text proposed by the Commission
3. Proceedings against a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.

Amendment
deleted

Or. en

Amendment 2800

Kinga Gál
Proposal for a regulation
Article 74 – paragraph 4

Text proposed by the Commission

(4) A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.

Amendment

Or. hu

Amendment 2801
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 74 – paragraph 4

Text proposed by the Commission

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.

Amendment

Or. es

Amendment 2802
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 4
4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.

Or. en

Amendment 2803
Carmen Romero López

Proposal for a regulation
Article 74 – paragraph 4

Text proposed by the Commission
Amendment

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.

Or. es

Justification

Amendment proposed for reasons of consistency with the proposed Article 54a (new).

Amendment 2804
Cornelia Ernst

Proposal for a regulation
Article 74 – paragraph 4
4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.

4. A data subject which is concerned by a decision of a supervisory authority in another Member State than where the data subject has its habitual residence, may request the supervisory authority of the Member State where it has its habitual residence to refer the matter to the European Protection Board where his case shall be treated according to the consistency mechanism. Only where the Board has not reached any settlement between the two data protection supervisory authorities, may the data subject request the supervisory authority of the Member State where it has its habitual residence to bring proceedings on its behalf against the competent supervisory authority in the other Member State.

Amendment 2805
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 74 – paragraph 5

Text proposed by the Commission

Amendment

5. The Member States shall enforce final decisions by the courts referred to in this Article.

deleted

Or. en

Amendment 2806
Josef Weidenholzer

Proposal for a regulation
Article 74 – paragraph 5 a (new)
Text proposed by the Commission

5a. Member States shall provide that no party of proceedings against the supervisory authority referred to in this Article is legally entitled to have its accrued costs compensated by any of the other parties, unless the claim is obviously frivolous.

Or. en

Justification

Data subjects but also smaller controllers (SMEs) are often times forced to even accept very questionable decisions by DPCs, because of the major financial risks when appealing such decisions, while there is usually no financial gain in winning these cases. They suggested that court costs and reimbursement of costs should be waived in order to allow each party to claim their rights effectively.

Amendment 2807
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 75 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any available administrative remedy, including the right to lodge a complaint with a supervisory authority as referred to in Article 73, every natural person shall have the right to a judicial remedy if they consider that their rights under this Regulation have been infringed as a result of the processing of their personal data in non-compliance with this Regulation.

Or. es

Amendment 2808
Claude Moraes, Glenis Willmott
Proposal for a regulation
Article 75 – paragraph 2

Text proposed by the Commission

2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its habitual residence, unless the controller is a public authority acting in the exercise of its public powers.

Amendment

2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has its habitual residence, unless the controller is a public authority acting in the exercise of its public powers or another body which has been entrusted with a mission of public interest.

Or. en

Amendment 2809
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 75 – paragraph 3

Text proposed by the Commission

3. Where proceedings are pending in the consistency mechanism referred to in Article 58, which concern the same measure, decision or practice, a court may suspend the proceedings brought before it, except where the urgency of the matter for the protection of the data subject's rights does not allow to wait for the outcome of the procedure in the consistency mechanism.

Amendment

3. Where proceedings are pending in the consistency mechanism referred to in Article 58, which concern the same measure, decision or practice, a court may suspend the proceedings brought before it at the request of one of the parties, and after having heard all of the parties, except where the urgency of the matter for the protection of the data subject's rights does not allow to wait for the outcome of the procedure in the consistency mechanism.

Or. es

Amendment 2810
Alexander Alvaro
Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.

Amendment

Or. en

Amendment 2811
Wim van de Camp

Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.

Amendment

Or. en

Amendment 2812
Louis Michel

Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission

1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.

Amendment

Or. en
Amendment 2813
Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál

Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission
1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.

Amendment
deleted

Or. en

Amendment 2814
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 76 – paragraph 1

Text proposed by the Commission
1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects.

Amendment
1. Any body, organisation or association referred to in Article 73(2) shall have the right to exercise the rights referred to in Articles 74 and 75 on behalf of one or more data subjects if it has been granted the requisite powers to do so.

Or. es

Amendment 2815
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 76 – paragraph 3

Text proposed by the Commission
3. Where a competent court of a Member State has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it

Amendment
deleted

Or. es
shall contact the competent court in the other Member State to confirm the existence of such parallel proceedings.

Amendment 2816
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 76 – paragraph 4

*Text proposed by the Commission*  
4. Where such parallel proceedings in another Member State concern the same measure, decision or practice, the court may suspend the proceedings.

Or. es

Amendment 2817
Nathalie Griesbeck
Proposal for a regulation
Article 76 – paragraph 5 a (new)

*Text proposed by the Commission*  
5a. Member States shall ensure that children enjoy the rights provided for in Articles 73 to 75. Should children be involved in the procedures provided for in Articles 73 to 75, Member States shall as far as possible provide specific guarantees, in particular as regards legal assistance.

Or. fr

*Justification*

The measures to protect children must also cover procedures involving complaints and judicial remedy.
Amendment 2818  
Alexander Alvaro

Proposal for a regulation  
Article 77 – paragraph 1

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**Text proposed by the Commission**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

---

**Amendment**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

---

**Or. en**

Amendment 2819  
Stanimir Ilchev

Proposal for a regulation  
Article 77 – paragraph 1

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**Text proposed by the Commission**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

---

**Amendment**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered unless the controller or processor proves that they are not responsible for the damage either by intent or negligence.

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**Or. de**

**Justification**

This is dealt with in paragraph 3, but sits more comfortably here.

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Amendment 2820  
Dimitrios Droutsas

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Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

Amendment

1. Any person who has suffered material or immaterial damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered. It is in the responsibility of the processor to prove that the damage was not caused by him.

Or. en

Amendment 2821
Josef Weidenholzer

Proposal for a regulation
Article 77 – paragraph 1

Text proposed by the Commission

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

Amendment

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered. It is in the responsibility of the processor to prove that the damage was not caused by him.

Or. en

Justification

Due to an imbalance in the access to decisive information, the processor should carry the burden of proof.

Amendment 2822
Adina-Ioana Vălean, Jens Rohde
Proposal for a regulation
Article 77 – paragraph 1

**Text proposed by the Commission**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

**Amendment**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller for the damage suffered.

Amendment 2823
Louis Michel

Proposal for a regulation
Article 77 – paragraph 1

**Text proposed by the Commission**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

**Amendment**

1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller for the damage suffered. If a processor processes personal data for purposes other than as instructed by the controller, they may be held liable should any person suffer damage as a result of such processing.

Amendment 2824
Claude Moraes, Glenis Willmott

Proposal for a regulation
Article 77 – paragraph 1

**Text proposed by the Commission**

1. Any person who has suffered damage as a result of an unlawful processing

**Amendment**

1. Any person who has suffered damage as a result of an unlawful processing
Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.

**Amendment 2825**  
Axel Voss, Monika Hohlmeier, Véronique Mathieu Houillon, Renate Sommer, Seán Kelly, Wim van de Camp, Lara Comi, Kinga Gál

Proposal for a regulation  
Article 77 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller or the processor for the damage suffered.</td>
<td>1. Any person who has suffered damage as a result of an unlawful processing operation or of an action incompatible with this Regulation shall have the right to receive compensation from the controller for the damage suffered.</td>
</tr>
</tbody>
</table>

**Amendment 2826**  
Alexander Alvaro

Proposal for a regulation  
Article 77 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.</td>
<td>2. Where more than one controller is involved in the processing, each controller shall be liable for the entire amount of the damage, to the extent that liability has not been already established in the determination of responsibilities as</td>
</tr>
</tbody>
</table>
referred to in Article 24.

Or. en

Amendment 2827
Jan Philipp Albrecht

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission

2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.

Amendment

2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage, unless they have an appropriate written agreement.

Or. en

Justification

Creates an incentive for clarifying the roles and responsibilities in writing in cases where several controllers or coprocessors are involved, in line with Art. 29 Working Party, Opinion 169.

Amendment 2828
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission

2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.

Amendment

2. Where more than one controller is involved in the processing, each controller shall be liable for the entire amount of the damage, to the extent that liability has not been already established in the determination of responsibilities as referred to in Article 24.

Or. en
Amendment 2829
Louis Michel

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission
2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.

Amendment
2. Where more than one controller is involved in the processing, each controller shall be liable only to the extent that he is responsible for the event giving rise to the damage and that liability has not already been established in the determination or responsibilities envisaged in Article 24.

Amendment 2830
Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission
2. Where more than one controller or processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage.

Amendment
2. Where more than one controller is involved in the processing, each controller shall be jointly and severally liable for the entire amount of the damage, notwithstanding the contractual agreement they might have concluded according to Article 24.

Amendment 2831
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 77 – paragraph 2

Text proposed by the Commission
2. Where more than one controller or

Amendment
2. Where more than one controller or
processor is involved in the processing, each controller or processor shall be jointly and severally liable for the entire amount of the damage. In the case of a group of undertakings, the entire group shall be liable as a single economic entity.

Amendment 2832
Stanimir Ilchev

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Amendment

deleted

Or. en

Amendment 2833
Louis Michel

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Amendment

deleted

Or. en

Amendment 2834
Alexander Alvaro
Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Amendment

3. The controller may be exempted from the liability under paragraph 2, in whole or in part, if the respective controller proves not to be responsible for the event giving rise to the damage.

Or. en

Amendment 2835
Frank Engel

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Amendment

3. The controller may be exempted from this liability, in whole or in part, if the controller proves not to be responsible for the event giving rise to the damage or if the controller does not have actual knowledge of the event giving rise to the claim for compensation.

Or. en

Amendment 2836
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission

3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Amendment

3. The controller may be exempted from the liability under paragraph 2, in whole or in part, if the respective controller proves not to be responsible for the event giving rise to the damage.

Or. en

AM\929533EN.doc 109/178 PE506.170v02-00
Amendment 2837
Axel Voss, Véronique Mathieu Houillon, Seán Kelly, Wim van de Camp, Renate Sommer, Monika Hohlmeier, Lara Comi, Kinga Gál

Proposal for a regulation
Article 77 – paragraph 3

Text proposed by the Commission
3. The controller or the processor may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Amendment
3. The controller may be exempted from this liability, in whole or in part, if the controller or the processor proves that they are not responsible for the event giving rise to the damage.

Or. en

Amendment 2838
Frank Engel

Proposal for a regulation
Article 77 – paragraph 3 a (new)

Text proposed by the Commission
3a. If a processor processes personal data other than as instructed by the controller, he may be held liable should any person suffer damage as a result of such processing.

Amendment

Or. en

Amendment 2839
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 78 – paragraph 2

Text proposed by the Commission
2. Where the controller has established a representative, any penalties shall be applied to the representative, without prejudice to any penalties which could be

Amendment
deleted
initiated against the controller.

Amendment 2840
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 78 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Where the controller has established a representative, any penalties shall be applied to the representative, without prejudice to any penalties which could be initiated against the controller.</td>
<td>2. Where the controller has established a representative, any penalties shall be applied to the representative in this specific capacity and the representative shall be required to comply with them, without prejudice to any penalties which could be initiated against the controller.</td>
</tr>
</tbody>
</table>

Or. es

Amendment 2841
Sylvie Guillaume, Françoise Castex, Evelyn Regner

Proposal for a regulation
Article 78 – paragraph 2 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a. Member States shall lay down rules on penalties that are effective and dissuasive in preventing any abuse of the fundamental right to the protection of personal data as enshrined in the Charter of Fundamental Rights, including legal provisions outlawing as a criminal offence the use of personal data to blacklist workers, vet them or bar them from future employment.</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

Amendment 2842
Dimitrios Droutsas
Proposal for a regulation
Article 78 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In applying the penalties referred to in paragraph 1 Member States shall show full respect for the principle of ne bis in idem, meaning that penalties may not be imposed twice regarding the same infringement of this Regulation.

Or. en

Amendment 2843
Sylvie Guillaume, Françoise Castex, Evelyn Regner

Proposal for a regulation
Article 78 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Member States shall ensure that persons or companies found to be taking part in blacklisting will be excluded from receiving EU grants and funding and from taking part in calls for tender for other public procurement contracts at EU, national or public authority level until all legal proceedings are proven to be completed, all compensation has been paid in full to any victims and there is reliable proof that this criminal culture has been removed from the organisation.

Or. en

Amendment 2844
Sophia in 't Veld

Proposal for a regulation
Article 79 – title
Proposition de la Commission

Amendement

Article 79 – paragraphe 6a (nouveau)

Texte proposé par la Commission

6a. La juridiction de surveillance saisira tout profit de la part d’un émetteur ou d’un traitant qui directement resulte d’une infraction intentionnelle ou une négligence grave de cette réglementation.

Justification

Dans certaines situations, une amende basée sur un pourcentage pourrait être inférieure au profit fait d’une violation de la loi, en rendant certains modèles d’affaires illégales à grande échelle globalement lucratifs. Cette modification introduit le bien établi principe de saisie de profits afin de fermer ce délit pour assurer un commerce équitable pour les émetteurs et les traitants qui respectent la loi.

Amendement 2846

Agustín Díaz de Mera García Consuegra

Proposition de la réglementation

Article 79 paragraphe 7a (nouveau)

Texte proposé par la Commission

7a. La Commission devra élaborer un registre électronique des instances précédentes accessible à toutes les juridictions de surveillance nationales. La Commission sera habilitée à adopter des actes délégués conformément à l’article 86 dans le but de gérer le registre électronique des instances précédentes conformément à cette réglementation.
Amendment 2847
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission
1. Each supervisory authority shall be
empowered to impose administrative
sanctions in accordance with this Article.

Amendment
1. The competent supervisory authority
shall be empowered to impose
administrative sanctions in accordance
with this Article.

Or. en

Amendment 2848
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission
1. Each supervisory authority shall be
empowered to impose administrative
sanctions in accordance with this Article.

Amendment
1. The supervisory authorities shall co-
operate with each other in accordance
with Articles 46 and 57 to guarantee a
harmonized level of sanctions within the
Union.

Or. en

Amendment 2849
Nils Torvalds

Proposal for a regulation
Article 79 – paragraph 1
<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.</td>
<td>1. Each supervisory authority shall be empowered to impose <strong>warnings or</strong> administrative sanctions in accordance with this Article.</td>
</tr>
</tbody>
</table>

**Amendment 2850**  
Dimitrios Droutsas

Proposal for a regulation  
Article 79 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| 1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article. | 1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.  
*The supervisory authorities shall cooperate with each other in accordance with Articles 46 and 57 to guarantee a consistent level of sanctions within the Union.* |

**Amendment 2851**  
Louis Michel

Proposal for a regulation  
Article 79 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.</td>
<td>1. Each <strong>competent</strong> supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.</td>
</tr>
</tbody>
</table>
Amendment 2852
Lidia Joanna Geringer de Oedenberg

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. The competent supervisory authority in accordance with Article 51 shall be empowered to impose administrative sanctions in accordance with this Article.

Or. pl

Amendment 2853
Hubert Pirker

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each competent supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Or. de

Amendment 2854
Sarah Ludford

Proposal for a regulation
Article 79 – paragraph 1

Text proposed by the Commission

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article.

Amendment

1. Each supervisory authority shall be empowered to impose administrative sanctions in accordance with this Article. The administrative sanctions available to supervisory authorities must include at least financial penalties and other administrative sanctions such as warnings and recommendations for remedial
action, including in relation to technical and organisational measures.

Justification

Supervisory authorities need sufficient powers to enforce the Regulation.

Amendment 2855
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 1 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a. To anyone who does not comply with the obligations laid down in this Regulation, the supervisory authority shall impose at least one of the following sanctions:</td>
<td></td>
</tr>
<tr>
<td>(a) a warning in writing;</td>
<td></td>
</tr>
<tr>
<td>(b) regular periodic data protection audits;</td>
<td></td>
</tr>
<tr>
<td>(c) a fine up to 100,000,000 EUR.</td>
<td></td>
</tr>
</tbody>
</table>

Justification

The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

Amendment 2856
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 1 b (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1b. If the controller or the processor is in</td>
<td></td>
</tr>
</tbody>
</table>

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possession of a valid "European Data Protection Seal" pursuant to Article 39, a fine pursuant to paragraph 2c) shall only be imposed in cases of intentional or negligent incompliance.

Justification

The European Data Protection Seal should create trust among data subjects, legal certainty for controllers and at the same time export European data protection standards by allowing non-European companies to more easily enter European markets by being certified.

Amendment 2857
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

Justification

The deletion partly results from the introduction of Article 79(1b) and (2a) and partly reflects the deletion of unnecessary specifications.
Amendment 2858  
Nils Torvalds

Proposal for a regulation  
Article 79 – paragraph 2

*Text proposed by the Commission*

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be **fixed with due regard to** the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

*Amendment*

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be **based on** the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

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Or. en

Amendment 2859  
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation  
Article 79 – paragraph 2

*Text proposed by the Commission*

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

*Amendment*

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be **fixed with due regard to** the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

*The sensitivity of the personal data at issue, the intentional or negligent character of the infringement, the degree of harm or risk of significant harm created by the violation, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to*
Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach. While some discretion is granted in the imposition of such sanctions to take into account the circumstances outlined above and other facts specific to the situation, divergences in the application of administrative sanctions may be subject to review pursuant to the consistency mechanism.

Amendment 2860
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional character of the infringement or the type of negligence leading to it, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach, as well as the true economic situation of those penalised.

Amendment 2861
Axel Voss
Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to:

(a) the nature, gravity and duration of the breach;
(b) the intentional or negligent character of the infringement;
(c) the particular categories of personal data;
(d) the degree of responsibility of the natural or legal person and of previous breaches by this person;
(e) the degree of responsibility for data protection by technical and organisational measures and procedures especially pursuant to Articles 35, 38a, 38b, 38c, 39;
(f) the technical and organisational measures and procedures implemented pursuant to Article 23; and
(g) the degree of co-operation with the supervisory authority in order to remedy the breach.

Justification

Taken from ITRE-Opinion. The fact of data being 'sensitive' or not should also affect the
amount of the fine imposed. In addition it should be considered if a controller or processor considers data protection as a fundamental issue and showing this in implementing technical or organisational measures and safeguards like in Articles 35, 38a, 38b, 38c, 39.

Amendment 2862
Dimitrios Droutsas
Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

Or. en

Amendment 2863
Timothy Kirkhope
on behalf of the ECR Group
Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment
2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall reflect the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility
degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Amendment 2864
Louis Michel

Proposal for a regulation
Article 79 – paragraph 2

*Text proposed by the Commission*

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

*Amendment*

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the sensitivity of the personal data at issue, the intentional or negligent character of the infringement, the degree of harm or risk of significant harm created by the violation, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach. While some discretion is granted in the imposition of such sanctions to take into account the circumstances outlined above and other facts specific to the situation, divergences in the application of administrative sanctions may be subject to review pursuant to the consistency mechanism.

In setting an administrative fine, supervisory authorities shall also take into account fines, damages or other penalties previously imposed by a court or other
body on the natural or legal person in respect of the violation issue.

Aggravating factors that support administrative fines at the upper limits established in paragraphs 4 to 6 shall include in particular:

(a) repeated violations committed in reckless disregard of applicable law;
(b) refusal to cooperate with or obstruction of an enforcement process; and
(c) violations that are deliberate, serious and likely to cause substantial damage.

Mitigating factors which support administrative fines at the lower limits shall include:

(a) measures having been taken by the natural or legal person to ensure compliance with relevant obligations;
(b) genuine uncertainty as to whether the activity constituted a violation of the relevant obligations;
(c) immediate termination of the violation upon knowledge; and
(d) cooperation with any enforcement processes.

Or. en

Amendment 2865
Hubert Pirker

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or
negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

Justification

In determining the fine, the category of data and the extent of the damage need to be taken into account.

Amendment 2866
Sarah Ludford

Proposal for a regulation
Article 79 – paragraph 2

2. The administrative sanction shall be in each individual case effective, proportionate and dissuasive. The amount of the administrative fine shall be fixed with due regard to the nature, gravity and duration of the breach, the intentional or negligent character of the infringement, the degree of responsibility of the natural or legal person and of previous breaches by this person, the technical and organisational measures and procedures implemented pursuant to Article 23 and the degree of co-operation with the supervisory authority in order to remedy the breach.

2. An administrative sanction shall be in every individual case effective, proportionate and dissuasive. In deciding on the nature, scope and seriousness of the administrative sanction to apply the supervisory authority shall have regard to all the circumstances and, in particular:

(a) the nature, gravity and duration of the breach;

(b) whether the breach was deliberate;
(c) whether reasonable steps were taken to prevent it;
(d) whether the breach did or is likely to cause substantial harm or substantial prejudice to the fundamental rights and freedoms of a data subject, or substantial distress to a data subject;
(e) any steps taken to mitigate the consequences of a breach, including the degree of cooperation with the supervisory authority in order to remedy the breach or its consequences;
(f) any previous breaches.

Justification

This better sets out the factors to be taken into account.

Amendment 2867
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 2 a (new)

Text proposed by the Commission

2a. The administrative sanction shall take into account the following factors:

(a) the nature, gravity and duration of the incompliance;

(b) the procedures implemented in respect to the contexts of and risks represented by the data processing referred to under Articles 5a and 5b;

(c) the degree of responsibility of the natural or legal person and of previous breaches by this person;

(d) the degree of technical and organisational measures and procedures implemented pursuant to:
(i) Article 23 - Data protection by design and by default;
(ii) Article 23a - Compliance;
(iii) Article 30 - Security of processing;
(iv) Article 33 - Data protection impact assessment;
(v) Article 33a - Data protection compliance review;
(vi) Article 35 - Designation of the data protection officer;
(e) the degree of co-operation with the supervisory authority.

Justification

The administrative sanction shall be in each individual case effective, proportionate and dissuasive.

Amendment 2868
Dimitrios Droutsas

Proposal for a regulation
Article 79 – paragraph 2 a (new)

Text proposed by the Commission

2a. In order to determine the type, the level and the amount of the administrative sanction, the supervisory authority shall take into account all relevant circumstances, with due regard to the following criteria:

(a) the possession of a valid "European Data Protection Seal" pursuant to Article 39, by the controller or the processor;
(b) the nature, gravity and duration of the infringement;
(c) the intentional or negligent character of the infringement;
(d) the degree of responsibility of the
natural or legal person and of previous infringements by this person;

(e) the technical and organisational measures and procedures implemented pursuant to Articles 23 and 30, such as pseudonymisation;

(f) the specific categories of personal data affected by the infringement;

(g) the repetitive nature of the infringement;

(h) the degree of harm suffered by data subjects,

(i) the pecuniary interest leading to the infringement by the person responsible and the level of the profits gained or losses avoided by the person responsible, insofar as they can be determined;

(j) the degree of cooperation with the supervisory authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement; and

(k) the refusal to cooperate with or obstruction of inspections, audits and controls carried out by the supervisory authority pursuant to Article 53.

Amendment 2869
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:</td>
<td>deleted</td>
</tr>
<tr>
<td>(a) a natural person is processing personal data without a commercial interest; or</td>
<td></td>
</tr>
</tbody>
</table>

EN
(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

**Justification**

Consequence of introduction of Article 79(2a)(new).

**Amendment 2870**
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 79 – paragraph 3

<table>
<thead>
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<td></td>
</tr>
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</table>

**Amendment 2871**
Sarah Ludford

Proposal for a regulation
Article 79 – paragraph 3

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<tbody>
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</tr>
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</table>

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sanction imposed, where:

(a) a natural person is processing personal data without a commercial interest; or

(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

Or. en

Justification

The supervisor needs flexibility in deciding sanctions.

Amendment 2872
Salvador Sedó i Alabart

Proposal for a regulation
Article 79 – paragraph 3 – introductory part

Text proposed by the Commission  
Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing shall be given and no sanction imposed, where:

Or. en

Amendment 2873
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 79 – paragraph 3 – introductory part

Text proposed by the Commission  
Amendment

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed. The competent supervisory authority may impose a fine, in accordance with the amount of harm caused, up to EUR 1 000 000 for repeated,
intentional breaches or, in the case of a company, of up to 1% of its annual worldwide turnover.

(a) a natural person is processing personal data without a commercial interest; or
(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

Amendment 2874
Axel Voss
Proposal for a regulation
Article 79 – paragraph 3 – introductory part

Text proposed by the Commission

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:

(a) a natural person is processing personal data without a commercial interest; or
(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

In case of a serious non-compliance with this Regulation, the supervisory authority should give at first a written warning including supposed measures to resolve the data breaches within a reasonable time without imposing a sanction.

The supervisory authority may only impose a fine with regard to paragraph 2
of up to EUR 1 000 000 or, in the case of a company, of up to 2 % of its annual worldwide turnover, for not resolving the data breaches with measures given in a written warning or for repeated, deliberate breaches.

Justification

Sanctions should be simplified and has to be risk-based orientated and differentiated by the degree of the breach. The maximum amount of the fine must be retained. However, the independence of supervisory authorities established by Article 8(3) of the Charter of Fundamental Rights of the European Union must be maintained. In addition, the consistency mechanism, and in particular Article 58(3) and (4), could contribute to a harmonised policy in the EU for administrative sanctions.

Amendment 2875
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 3 – introductory part

3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:

3. In case of a first and non-intentional non-compliance with this Regulation, in the absence of any record of previous unappealable instances or where the record has been expunged, a warning in writing may be given and, in such an instance, no sanction imposed, with the sole exception of alternative corrective measures, which may only be imposed in the following cases and in the following form, where:

Amendment 2876
Véronique Mathieu Houillon, Axel Voss

Proposal for a regulation
Article 79 – paragraph 3 – introductory part
3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:

(a) a natural person is processing personal data without a commercial interest; or

(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.
3. In case of a first and non-intentional non-compliance with this Regulation, a warning in writing may be given and no sanction imposed, where:

(a) a natural person is processing personal data without a commercial interest; or

(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

Amendment 2879
Jan Mulder

Proposal for a regulation
Article 79 – paragraph 3 – point b

Text proposed by the Commission

(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

Amendment

deleted

Or. en

Amendment 2880
Sari Essayah, Eija-Riitta Korhola

Proposal for a regulation
Article 79 – paragraph 3 – point b

Text proposed by the Commission

(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

Amendment

(b) an enterprise or an organisation is processing personal data only as an activity ancillary to its main activities.
The limit of 250 employees places employers in an unequal position, is discriminatory against larger enterprises and is by no means for reaching the aim of the article. Furthermore, the limit is not in all aspects easily interpreted.

Amendment 2881
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 3 – point b

Text proposed by the Commission

(b) an enterprise or an organisation employing fewer than 250 persons is processing personal data only as an activity ancillary to its main activities.

Amendment

(b) an enterprise or an organisation is willing to cooperate with the supervisory authority for the introduction of corrective measures designed to avoid similar cases of non-compliance in future. Cooperation in this area shall be governed by binding agreements with the supervisory authority. Failure to collaborate with the duly accredited supervisory authority within six months from the beginning of the proceedings shall incur the fine which would originally have been imposed.

Amendment 2882
Sari Essayah

Proposal for a regulation
Article 79 – paragraph 3 – point b a (new)

Text proposed by the Commission

(ba) a public authority is processing data.

Amendment
Amendment 2883
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 3 – point b a (new)

Text proposed by the Commission
(ba) public administrations shall collaborate with supervisory authorities to establish ways of avoiding similar infringements in future. Collaboration in this area shall be determined on the basis of the agreements or decisions adopted by the administration concerned, which shall be referred to at the outset with regard to the measures taken. Failure to collaborate with the duly accredited supervisory authority within one year from the beginning of the proceedings shall incur the fine which would originally have been imposed.

Amendment

Or. es

Amendment 2884
Sarah Ludford

Proposal for a regulation
Article 79 – paragraph 3 a (new)

Text proposed by the Commission
3a. A supervisory authority may, in particular, decide that it is appropriate to apply a sanction other than a financial penalty if the nature, scope or purposes of the processing activities are such that the activity is unlikely to represent risks for the fundamental rights of a data subject.

Amendment

Or. en

Justification

The supervisor needs flexibility in relating sanction to risk.
Amendment 2885
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 4

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Or. en

Justification

Consequence of introduction of Article 79(2a)(new).

Amendment 2886
Axel Voss

Proposal for a regulation
Article 79 – paragraph 4

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).
**Articles 12(1) and (2);**

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

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**Amendment 2887**  
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation  
Article 79 – paragraph 4

*Text proposed by the Commission*  
*Amendment*

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

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**Amendment 2888**  
Dimitrios Droutsas

Proposal for a regulation  
Article 79 – paragraph 4 – introductory part

*Text proposed by the Commission*  
*Amendment*

4. The supervisory authority shall impose a fine **up to** 250 000 EUR, or in case of an enterprise **up to** 0.5 % of its annual worldwide turnover, to anyone who, intentionally or negligently: **infringes**
Article 12(1) and (2).

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Or. en

Amendment 2889
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 79 – paragraph 4

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0.5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the mechanisms for requests by data subjects or does not respond promptly or not in the required format to data subjects pursuant to Articles 12(1) and (2);

(b) charges a fee for the information or for responses to the requests of data subjects in violation of Article 12(4).

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover whatever is higher to anyone who intentionally or negligently infringes Article 12(1) and (2).

Or. en

Justification

More precise language and more adequate maximum fine for intentional infringement as outlined in the paragraph.

Amendment 2890
Louis Michel
Proposal for a regulation
Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0.5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority may impose a fine up to 250 000 EUR to anyone who, intentionally:

Or. en

Amendment 2891
Nils Torvalds, Riikka Manner

Proposal for a regulation
Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0.5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority shall, based on the gravity of the breach, impose a fine or a warning to anyone who, intentionally or negligently:

Or. en

Amendment 2892
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0.5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en
Proposal for a regulation  
Article 79 – paragraph 4 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>4. The supervisory authority shall impose a fine up to 250,000 EUR, or in case of an enterprise up to 0.5% of its annual worldwide turnover, to anyone who, intentionally or negligently:</td>
<td>4. The supervisory authority shall impose fines graded in relation to the seriousness and scale of the incident, as well as the harm or potential harm caused, the length of the breach, previous infringements and the response to the incident or incidents concerned, up to a maximum of 250,000 EUR, or in case of an enterprise up to 0.5% of its annual worldwide turnover. Such infringements and fines may apply to anyone who:</td>
</tr>
</tbody>
</table>

Or. en

Amendment 2894  
Ewald Stadler

Proposal for a regulation  
Article 79 – paragraph 4 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. The supervisory authority shall impose a fine up to 250,000 EUR or, in case of an enterprise up to 0.5% of its annual worldwide turnover, to anyone who, intentionally or negligently:</td>
<td>4. The supervisory authority shall impose a fine up to 500,000 EUR to anyone who, intentionally or negligently</td>
</tr>
</tbody>
</table>

Or. de

Justification

A fine proportionate to the turnover of the undertaking would be disproportionate for such a breach.
Amendment 2895
Sarah Ludford

Proposal for a regulation
Article 79 – paragraph 4 – introductory part

Text proposed by the Commission

4. The supervisory authority shall impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

4. The supervisory authority may impose a fine up to 250 000 EUR, or in case of an enterprise up to 0,5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Justification

Supervisory authorities need discretion to decide whether and what level of fine is appropriate.

Amendment 2896
Alexander Alvaro

Proposal for a regulation
Article 79 – paragraph 5

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

Amendment

deleted

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(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Justification

Consequence of introduction of Article 79 paragraph 2a (new).

Amendment 2897
Axel Voss

Proposal for a regulation
Article 79 – paragraph 5

Text proposed by the Commission  Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual
worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.
Amendment 2898
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 79 – paragraph 5

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subject requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved,
pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Amendment 2899
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR or, in case of an enterprise, up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

   (a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

   (b) does not provide access for the data

Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR or, in case of an enterprise, up to 1 % of its annual worldwide average profits to anyone who, intentionally or negligently:

   (a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

   (b) does not provide access for the data

Amendment 2900
Wim van de Camp

Proposal for a regulation
Article 79 – paragraph 5

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

   (a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

   (b) does not provide access for the data

Amendment

5. The supervisory authority may impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

   (a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

   (b) does not provide access for the data
subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subject requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure or has not provided a mechanism pursuant Article 17a. When determining a fine for a violation as referred to in this section, the supervisory authority shall take into account the extent to which the controller, or the main establishment as referred to in article 22(4), has put in place mechanisms for ensuring that the time limits with respect to the retention of the personal data are observed;

(d) hinders the data subject to his user-generated content to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Justification

The ‘accountability measures’ should not be fined as an independent infringement. Where the absence of such measures are likely to have caused the infringement of the ‘material rules’ (like data security, data subject’s rights, data limitation, etc), the supervisory authority should take such absence into account in determining the level of the fine (see also the US Federal Sentencing Guidelines for companies in case of non-compliance). Furthermore, instead of
issuing a fine, the supervisory authority should order the controller or processor to take the necessary measures pursuant to its powers in Article 53.

Amendment 2901
Dimitrios Droutsas

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

Amendment

5. The supervisory authority shall impose a fine that shall not exceed 500 000 EUR, or in case of an enterprise 2 % of its annual worldwide turnover to anyone who intentionally or negligently infringes Articles 11, 12(3) and (4), 13, 14, 15, 16, 17, 18, 24, 28, 31(4), 44(3), 80, 82, 83.
(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Or. en

Amendment 2902
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1% of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

(b) does not provide access for the data subject or does not rectify personal data pursuant to Articles 15 and 16 or does not communicate the relevant information to a recipient pursuant to Article 13;

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take

Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 2% of its annual worldwide turnover whatever is higher, to anyone who, intentionally or negligently, infringes Articles 11, 12(3) and (4), 13, 14, 15, 16, 17, 18, 24, 28, 31(4), 44(3), 80, 82, 83.
all necessary steps to inform third parties that a data subjects requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article 18;

(e) does not or not sufficiently determine the respective responsibilities with co-controllers pursuant to Article 24;

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

(g) does not comply, in cases where special categories of data are not involved, pursuant to Articles 80, 82 and 83 with rules in relation to freedom of expression or with rules on the processing in the employment context or with the conditions for processing for historical, statistical and scientific research purposes.

Amendment 2903
Louis Michel

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:</td>
<td>5. The supervisory authority imposes a fine up to 500 000 EUR to anyone who intentionally:</td>
</tr>
</tbody>
</table>

Amendment 2904
Nils Torvalds, Riikka Manner
Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority shall, based on the gravity of the breach, impose a fine or a warning to anyone who, intentionally or negligently:

Or. en

Amendment 2905
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 3 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Amendment 2906
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority shall impose a fine under the same criteria as listed in article 79 paragraph 4, for the more serious breaches, up to a maximum of 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover to anyone who:
Proposal for a regulation
Article 79 – paragraph 5 – introductory part

Text proposed by the Commission

5. The supervisory authority shall impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

5. The supervisory authority may impose a fine up to 500 000 EUR, or in case of an enterprise up to 1 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Justification

Supervisory authorities need greater discretion to decide whether and what level of fine is appropriate.

Proposal for a regulation
Article 79 – paragraph 5 – point a

Text proposed by the Commission

(a) does not provide the information, or does provide incomplete information, or does not provide the information in a sufficiently transparent manner, to the data subject pursuant to Article 11, Article 12(3) and Article 14;

Amendment

(a) does not provide the information, or does provide manifestly incomplete information, pursuant to Article 11, Article 12(3) and Article 14;

Proposal for a regulation
Article 79 – paragraph 5 – point c
(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subject requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

Amendment

(c) does not comply with the right to be forgotten or to erasure, on websites or data within their control, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subject requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

Or. en

Amendment 2910
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 79 – paragraph 5 – point c

Text proposed by the Commission

(c) does not comply with the right to be forgotten or to erasure, or fails to put mechanisms in place to ensure that the time limits are observed or does not take all necessary steps to inform third parties that a data subject requests to erase any links to, or copy or replication of the personal data pursuant Article 17;

Amendment

(c) does not comply with a request concerning the right to be forgotten or erasure in accordance with the provisions of this Regulation.

Or. es

Amendment 2911
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 79 – paragraph 5 – point d

Text proposed by the Commission

(d) does not provide a copy of the personal data in electronic format or hinders the data subject to transmit the personal data to another application in violation of Article

Amendment

(d) does not provide a copy of the personal data in electronic format or for no legitimate reason hinders the data subject to transmit the personal data to another
application in violation of Article 18;

Amendment 2912
Louis Michel
Proposal for a regulation
Article 79 – paragraph 5 – point e

Text proposed by the Commission Amendment

(e) does not or not sufficiently determine deleted
the respective responsibilities with co-
controllers pursuant to Article 24;

Or. es

Amendment 2913
Louis Michel
Proposal for a regulation
Article 79 – paragraph 5 – point f

Text proposed by the Commission Amendment

(f) does not or not sufficiently maintain deleted
the documentation pursuant to Article 28,
Article 31(4), and Article 44(3);

Or. en

Amendment 2914
Stanimir Ilchev
Proposal for a regulation
Article 79 – paragraph 5 – point f

Text proposed by the Commission Amendment

(f) does not or not sufficiently maintain the documentation pursuant to Article 28,
Article 31(4), and Article 44(3);

(f) does not or not sufficiently maintain the documentation pursuant to Article 14,
Article 28, Article 31(4), and Article 44(3);

Or. de
Amendment 2915
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 79 – paragraph 5 – point f

Text proposed by the Commission

(f) does not or not sufficiently maintain the documentation pursuant to Article 28, Article 31(4), and Article 44(3);

Amendment

(f) does not report or ensure that it is able to report to the supervisory authority where required to do so and in the manner stipulated in this Regulation, except in the case of serious misconduct under the terms of this Regulation or the implementing legislation of the Member States;

Or. es

Amendment 2916
Alexander Alvaro
Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for

Amendment

deleted
ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for
safeguarding professional secrecy pursuant to Article 84.

Or. en

Justification

Consequence of introduction of Article 79 paragraph 2a (new).

Amendment 2917
Axel Voss

Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles
26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Amendment 2918
Adina-Ioana Vălean, Jens Rohde
Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions

Amendment

deleted
for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Amendment 2919
Wim van de Camp
Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

Amendment

6. The supervisory authority may impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;
(b) processes special categories of data in violation of Articles 9 and 81;
(c) does not comply with an objection or the requirement pursuant to Article 19;
(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;
(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;
(f) does not designate a representative pursuant to Article 25;
(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;
(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;
(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;
(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;
(k) misuses a data protection seal or mark in the meaning of Article 39;
(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;
(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the
supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(3);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Justification

The ‘accountability measures’ should not be fined as an independent infringement. Where the absence of such measures are likely to have caused the infringement of the ‘material rules’ (like data security, data subject’s rights, data limitation, etc), the supervisory authority should take such absence into account in determining the level of the fine (see also the US Federal Sentencing Guidelines for companies in case of non-compliance). Furthermore, instead of issuing a fine, the supervisory authority should order the controller or processor to take the necessary measures pursuant to its powers in Article 53.

Amendment 2920
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise, up to 2 % of its average annual worldwide profits to anyone who intentionally or negligently:

Amendment 2921
Dimitrios Droutsas
Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;
(b) processes special categories of data in violation of Articles 9 and 81;
(c) does not comply with an objection or the requirement pursuant to Article 19;
(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;
(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;
(f) does not designate a representative pursuant to Article 25;
(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;
(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;
(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

Amendment

6. The supervisory authority shall impose a fine that shall not exceed 1 000 000 EUR or, in case of an enterprise 5 % of its annual worldwide turnover, to anyone who intentionally or negligently infringes the provisions of this Regulation other than those referred to in paragraphs 4 and 5.
(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

Amendment 2922
Josef Weidenholzer, Birgit Sippel

Proposal for a regulation
Article 79 – paragraph 6

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine that shall not exceed 1 000 000 EUR or, in case of an enterprise 5 % of its annual worldwide turnover whatever is higher, to anyone who intentionally or negligently infringes the provisions of this Regulation other than those referred to in

(a) processes personal data without any or sufficient legal basis for the processing or does not comply with the conditions for consent pursuant to Articles 6, 7 and 8;

(b) processes special categories of data in violation of Articles 9 and 81;

(c) does not comply with an objection or the requirement pursuant to Article 19;

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

(f) does not designate a representative pursuant to Article 25;

(g) processes or instructs the processing of personal data in violation of the obligations in relation to processing on behalf of a controller pursuant to Articles 26 and 27;

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

(k) misuses a data protection seal or mark in the meaning of Article 39;

(l) carries out or instructs a data transfer to a third country or an international organisation that is not allowed by an adequacy decision or by appropriate
safeguards or by a derogation pursuant to Articles 40 to 44;

(m) does not comply with an order or a temporary or definite ban on processing or the suspension of data flows by the supervisory authority pursuant to Article 53(1);

(n) does not comply with the obligations to assist or respond or provide relevant information to, or access to premises by, the supervisory authority pursuant to Article 28(3), Article 29, Article 34(6) and Article 53(2);

(o) does not comply with the rules for safeguarding professional secrecy pursuant to Article 84.

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Amendment 2923
Louis Michel

Proposal for a regulation
Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority may impose a fine up to 1 000 000 EUR to anyone who, intentionally:

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Amendment 2924
Nils Torvalds, Riikka Manner

Proposal for a regulation
Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an

Amendment

6. The supervisory authority shall, based on the gravity of the breach, impose a fine
enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

or warning to anyone who, intentionally or negligently:

Amendment 2925
Cornelia Ernst, Marie-Christine Vergiat

Proposal for a regulation
Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 5 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Amendment 2926
Ewald Stadler

Proposal for a regulation
Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1.000.000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine up to 1.000.000 EUR or, in case of a breach with intent to make a profit by an enterprise, up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. de

Amendment 2927
Timothy Kirkhope
on behalf of the ECR Group

Proposal for a regulation
Article 79 – paragraph 6 – introductory part
6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority shall impose a fine under the same criteria as listed in Article 79(4) for the most serious breaches, up to a maximum of 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who:

Or. en

Amendment 2928
Sarah Ludford

Proposal for a regulation
Article 79 – paragraph 6 – introductory part

Text proposed by the Commission

6. The supervisory authority shall impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Amendment

6. The supervisory authority may impose a fine up to 1 000 000 EUR or, in case of an enterprise up to 2 % of its annual worldwide turnover, to anyone who, intentionally or negligently:

Or. en

Justification

Supervisory authorities need discretion to decide whether and what level of fine is appropriate.

Amendment 2929
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – point c

Text proposed by the Commission

(c) does not comply with an objection or the requirement pursuant to Article 19;

Amendment

(c) does not comply with an objection or the requirement pursuant to Article 19 unless duly justified by real and legitimate grounds or reasons in accordance with
Amendment 2930
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – point d

_text proposed by the Commission_  _Amendment_

(d) does not comply with the conditions in relation to measures based on profiling pursuant to Article 20;

_delete_

Amendment 2931
Louis Michel

Proposal for a regulation
Article 79 – paragraph 6 – point e

_text proposed by the Commission_  _Amendment_

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

_delete_

Amendment 2932
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – point e

_text proposed by the Commission_  _Amendment_

(e) does not adopt internal policies or does not implement appropriate measures for ensuring and demonstrating compliance pursuant to Articles 22, 23 and 30;

_delete_
Amendment 2933
Louis Michel

Proposal for a regulation
Article 79 – paragraph 6 – point f

Text proposed by the Commission

(f) does not designate a representative pursuant to Article 25;

Amendment

deleted

Or. es

Amendment 2934
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – point h

Text proposed by the Commission

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject pursuant to Articles 31 and 32;

Amendment

(h) does not alert on or notify a personal data breach or does not timely or completely notify the data breach to the supervisory authority or to the data subject where mandatory pursuant to Articles 31 and 32;

Or. es

Amendment 2935
Louis Michel

Proposal for a regulation
Article 79 – paragraph 6 – point i

Text proposed by the Commission

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

Amendment

deleted

Or. es
Amendment 2936
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – point i

_text proposed by the Commission_

(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority pursuant to Articles 33 and 34;

 Amendment
(i) does not carry out a data protection impact assessment pursuant or processes personal data without prior authorisation or prior consultation of the supervisory authority where mandatory pursuant to Articles 33 and 34;

Or. es

Amendment 2937
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – point j

_text proposed by the Commission_

(j) does not designate a data protection officer or does not ensure the conditions for fulfilling the tasks pursuant to Articles 35, 36 and 37;

 Amendment
(j) does not ensure that the conditions are met to enable the Data Protection Officer to carry out the tasks pursuant to Articles 35, 36 and 37;

Or. es

Amendment 2938
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 79 – paragraph 6 – point k

_text proposed by the Commission_

(k) misuses a data protection seal or mark in the meaning of Article 39;

 Amendment
(k) misuses a data protection seal, mark or certification in the meaning of Article 39;
Proposal for a regulation
Article 79 – paragraph 6 a (new)

Text proposed by the Commission

6a. For the purpose of this article, the record of previous unappealable sanctions for infringements through negligence shall be expunged within the following periods:

(a) two years if the sanctions are accompanied by any of the fines specified under paragraph 4;
(b) four years if the sanctions are accompanied by any of the fines specified under paragraph 5;
(c) six years if the sanctions are accompanied by any of the fines specified under paragraph 6.

Proposal for a regulation
Article 79 – paragraph 6 a (new)

Text proposed by the Commission

6a. A fine for violations referred to in paragraph 6 can only be imposed for a particular processing of personal data. When determining a fine for a violation as referred to in this paragraph, the supervisory authority shall take into account the following facts and circumstances:

(a) the extent to which the controller, or the main establishment as referred to in
Article 22(4), has adopted internal policies and has implemented the measures referred to in Articles 22, 23 and 30 with respect to such processing;

(b) the fact whether or not the controller, or the main establishment as referred to in Article 22(4), has designated a data protection officer pursuant to Article 35;

(c) the extent to which the controller has allowed the data protection officer, if any, to perform his tasks as referred to in Article 37 with respect to such processing;

(d) the extent to which the data protection officer, if any, was involved in the decision making with respect to such processing or in the implementation thereof;

(e) the fact whether or not the controller has performed a privacy impact assessment with respect to such processing;

(f) the fact whether or not the controller, where relevant, has complied with Article 26; and

(g) the extent to which the controller has instructed the processor, if any, pursuant to Article 27.

Justification

The ‘accountability measures’ should not be fined as an independent infringement. Where the absence of such measures are likely to have caused the infringement of the ‘material rules’ (like data security, data subject’s rights, data limitation, etc), the supervisory authority should take such absence into account in determining the level of the fine (see also the US Federal Sentencing Guidelines for companies in case of non-compliance). Furthermore, instead of issuing a fine, the supervisory authority should order the controller or processor to take the necessary measures pursuant to its powers in Article 53.

Amendment 2941
Agustín Díaz de Mera García Consuegra
Proposal for a regulation
Article 79 – paragraph 6 b (new)

Text proposed by the Commission

6b. For the purpose of this article, the record of previous unappealable sanctions for infringements committed through serious negligence or with intent shall be expunged within the following periods:

(a) five years if the sanctions are accompanied by any of the fines specified under paragraph 4;

(b) ten years if the sanctions are accompanied by any of the fines specified under paragraph 5;

(c) fifteen years if the sanctions are accompanied by any of the fines specified under paragraph 6.

Amendment

Or. es

Amendment 2942
Axel Voss

Proposal for a regulation
Article 79 – paragraph 7

Text proposed by the Commission

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Amendment

deleted

Or. en

Amendment 2943
Adina-Ioana Vălean, Jens Rohde

Proposal for a regulation
Article 79 – paragraph 7
Text proposed by the Commission  

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Amendment

deleted

Amendment 2944

Josef Weidenholzer

Proposal for a regulation

Article 79 – paragraph 7

Text proposed by the Commission  

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Amendment

deleted

Or. en

Amendment 2945

Dimitrios Droutsas

Proposal for a regulation

Article 79 – paragraph 7

Text proposed by the Commission  

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Amendment

7. The Commission shall be empowered to adopt, after requesting an opinion of the European Data Protection Board, delegated acts in accordance with Article 86 for the purpose of updating the absolute amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking
into account the criteria referred to in paragraph 2 and the development of standard costs of living.

Amendment 2946
Louis Michel

Proposal for a regulation
Article 79 – paragraph 7

Text proposed by the Commission

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Or. en

Amendment

7. Where convincing evidence exists of continued negligence or gross negligence by organisations in the execution of their responsibilities under this Regulation or the failure of these sanctions to deter serious abuses that cannot be addressed under the current framework. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of updating the amounts or conditions of the administrative fines referred to in paragraphs 4, 5 and 6, taking into account the criteria referred to in paragraph 2.

Or. en

Amendment 2947
Sari Essayah

Proposal for a regulation
Article 79 – paragraph 7 a (new)

Text proposed by the Commission

7a. Article 79(4) to (7) shall not apply to public authorities. The supervisory authority shall not possess authority to define and impose fines on public authorities.

Or. en
Amendment 2948
Sophia in 't Veld

Proposal for a regulation
Article 79 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The Commission shall bring forward a legislative proposal for the purpose of specifying the criteria and requirements for the joint and several liability of the board of the controller and the processor, and in particular the board member referred to in Article 37a, in cases of non-compliance with the provisions of this Regulation within one year after the entry into force of this Regulation.

Or. en

Amendment 2949
Sophia in 't Veld

Proposal for a regulation
Article 79 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. The Commission shall bring forward a legislative proposal for the purpose of specifying the criteria and requirements for administrative and criminal sanctions against the board, in particular the board member referred to in Article 37a, in cases of non-compliance with the provisions of this Regulation causing, or having caused, damage to data subjects, within one year after the entry into force of this Regulation.

Or. en

Amendment 2950
Sophia in 't Veld
**Proposal for a regulation**  
Article 79 – paragraph 7 c (new)

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<tr>
<th>Text proposed by the Commission</th>
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<tr>
<td>7c. The Commission shall bring forward a legislative proposal for the purpose of specifying the conditions and criteria to guarantee the legal protection of whistleblowers within one year after the entry into force of this Regulation.</td>
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Or. en